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P R O C E E D I N G S

DEPARTMENT OF LABOR AND INDUSTRIES  
PUBLIC HEARING  
ERGONOMICS

Washington State Convention & Trade Center  
800 Convention Place  
Seattle, Washington

DATE: January 5, 2000

REPORTED BY: Paula Somers, CSR  
CSR NO.: SO-ME-RP-L535N2

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1           DEPARTMENT OF LABOR AND INDUSTRIES STAFF IN ATTENDANCE:  
2  
3           MR. SELWYN WALTERS - Hearings Officer, Agency Rules  
4           Coordinator  
5           MR. MICHAEL WOOD - Hearings Officer, Senior Program Manager  
6           MR. TRACY SPENCER - Standards Program Manager  
7           MR. JOSH SWANSON - Administrative Regulations Coordinator  
8           MS. JENNY HAYS - Safety & Health Specialist  
9           MR. RICK GOGGINS - Ergonomist  
10          MR. JOHN PEART - Industrial Hygienist  
11          DR. MICHAEL SILVERSTEIN - Assistant Director for Workplace  
12          Safety and Health  
13          MR. JEFF GRIMM - Office Assistant Senior

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1	I N D E X	Page
2		
3	<u>OPENING COMMENTS AND PRESENTATION BY:</u>	
4	Mr. Selwyn Walters . . . . .	4
5	* * *	
6	<u>ORAL COMMENTS BY:</u>	
7	Ms. Diane Sosne . . . . .	10
8	Ms. Helen Cyr . . . . .	15
9	Mr. Max Beery . . . . .	17
10	Mr. Rick Bender . . . . .	21
11	Mr. Morris Mehrer . . . . .	24
12	Mr. Jay Causey . . . . .	25
13	Dr. Bruce Bernard . . . . .	30
14	Mr. Scott Schneider . . . . .	37
15	Mr. Daniel Koebel . . . . .	51
16	Ms. Jan Bussert . . . . .	59
17	Mr. Roger Yockey . . . . .	61
18	Mr. Mark Hadfield . . . . .	60
19	Mr. Knut Ringen . . . . .	70
20	Mr. Keith Brossard . . . . .	76
21	Ms. Ingrid Rasmussen . . . . .	83
22	Mr. Richard Lind . . . . .	86
23	Ms. Maureen Bo . . . . .	91
24	Ms. Janet Hays . . . . .	94
25	Ms. Sue Morrison . . . . .	97
	Ms. Linda McKeever . . . . .	100
	Mr. Henry Haba . . . . .	102
	Ms. Lila Smith . . . . .	107
	Ms. Rosalie Gammelgaard . . . . .	110
	Ms. Marjie Peterson . . . . .	113
	Mr. Eric Hands . . . . .	114
	Mr. Richard Rawlings . . . . .	119
	* * *	
	<u>CLOSING COMMENTS BY:</u>	
	Mr. Selwyn Walters . . . . .	
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PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 SEATTLE, WASHINGTON; WEDNESDAY, JANUARY 5, 2000

2 1:48 P.M.

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6 THE ASSEMBLY OF THE PUBLIC HEARING, regarding Ergonomics,  
7 convened, Mr. Selwyn  
8 Walters and  
9 Mr. Michael Wood,  
10 presiding:  
11

12

\* \* \* \* \*

13 O P E N I N G C O M M E N T S

14 A N D P R E S E N T A T I O N

15 MR. WALTERS: Good afternoon, ladies and  
16 gentlemen, once again. I now call this hearing to order.

17 This is a public hearing being sponsored by the  
18 Department of Labor and Industries. My name is Selwyn  
19 Walters, and I'm the Agency Rules Coordinator, and with me  
20 is Michael Wood, who is a Senior Program Manager for  
21 Policies and for Services with the Washington Industrial  
22 Safety and Health Programs, and we're representing Gary  
23 Moore, who is the Director of the Department of Labor and  
24 Industries, today.

25 For the record, this hearing is being held on

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 January 5th in Seattle, Washington, beginning at 1:48 p.m.  
2 This hearing is authorized by the Washington Industrial  
3 Safety and Health Act, and the Administrative Procedures  
4 Act.

5           Once the formal hearing is closed, staff will be  
6 available for additional comments. If you have not already  
7 done so, please fill out the sign-in sheet located at the  
8 back of the room. This sheet will be used to call forward  
9 individuals to testify and to ensure hearing participants  
10 are notified of the hearing results.

11           For those of you who have written comments that  
12 you would like to submit, please give them either to Jenny  
13 Hays, Jeff Grimm, or Tracy Spencer at the back table. We  
14 will accept written comments until 5:00 p.m. on February  
15 14th, 2000.

16           For those unable to submit comments today,  
17 comments may be mailed to the Department of Labor and  
18 Industries' WISHA Services Division at Post Office Box  
19 44620, Olympia, Washington 98504-4620; or you may email at  
20 `ergorule - that's e-r-g-o-r-u-l-e - @lni.wa.gov`; or faxed to  
21 area code 360-902-5529. Comments submitted by fax must be  
22 10 pages or less.

23           The court reporter for this hearing is Paula  
24 Somers of Starkovich Reporting. Transcripts of the  
25 proceedings should be requested and are available through

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 the court reporter. Also, copies of the transcripts will be  
2 available on the WISHA homepage @ [www.lni.wa.gov/wisha/ergo](http://www.lni.wa.gov/wisha/ergo)  
3 within three weeks. Any requests for copies of the written  
4 transcripts submitted to the department will be forwarded to  
5 the court reporter. The court reporter does charge for  
6 transcripts.

7 Notice of this hearing is published as 99-23-067  
8 in the Washington State Register on December 1, 1999 and  
9 December 15th, 1999. Hearing notices were also sent to  
10 interested parties.

11 In accordance with the Washington Industrial  
12 Safety and Health Law, 49.17.040, of the Revised Code of  
13 Washington, notice was also published 30 or more days prior  
14 to this hearing in the following newspapers: The Journal of  
15 Commerce, the Spokesman Review, The Olympian, The Bellingham  
16 Herald, The Columbian, the Yakima Herald-Republic, and the  
17 Tacoma News Tribune.

18 This hearing is being held to receive oral and  
19 written testimony on the proposed rules. Any comments  
20 received today, as well as written comments received later,  
21 will be presented to Director Moore.

22 Prior to starting a formal hearing, an oral  
23 summary of the proposed rule was given by Dr. Michael  
24 Silverstein, and a question and answer period occurred.  
25 Please refer to the handbook provided to you at the door for



1 a copy of the proposed rule. Copies of this handout are  
2 located at the sign-in table, if you did not receive one.

3 I would like now to speak about the small business  
4 economic impacts. In order to evaluate the potential  
5 economic impacts of the proposed rule on small business, the  
6 department conducted a Small Business Economic Impact  
7 Statement in accordance with the Regulatory Fairness Act.

8 The Department administered, their surveys of  
9 potentially-affected industries. Despite little evidence of  
10 the ergonomics rules would impose a disproportionate burden  
11 on small employers, the department recognizes that small  
12 businesses face inherent disadvantages which might not be  
13 fully addressed in this analysis.

14 Therefore, the department concludes that the  
15 prudent approach to the rule is to make special allowances  
16 for small business, mitigation from high costs for small  
17 business is planned in several ways.

18 First, there will be a phase-in period which  
19 includes delayed enforcement for small businesses. The  
20 department intends to undertake substantial efforts to  
21 provide assistance to small businesses in preparing for the  
22 rule during this phase-in period.

23 Second, employers would have options on the rule  
24 which allow them to follow specific criteria for identifying  
25 and reducing hazards, or to develop and use their own

1 criteria which may be tailored to meet their needs.

2 Finally, the department's methods of assessing  
3 penalties for violations of the rule allows a very  
4 substantial penalty reduction for small employers.

5 As you can see, several folks are here to testify.  
6 So oral presentations will be limited to 10 minutes. But  
7 please do not feel that you have to use the entire 10  
8 minutes.

9 If time permits, we will allow for additional  
10 testimony to be given after everyone has had an opportunity  
11 to speak. Please keep in mind that we have allowed a full  
12 month to receive written comments, the cutoff date being  
13 February 14th, 2000.

14 I would like to remind you that this is not an  
15 adversarial hearing. There will be no cross-examination of  
16 the speakers. However, we, Michael and myself, may ask  
17 clarifying questions, as stated above. When all speakers of  
18 the hearing roster have had an opportunity for anyone who so  
19 desires to present their testimony, we will provide an  
20 opportunity to present additional testimony. Michael and  
21 myself may ask questions of you, primarily for clarification  
22 purposes.

23 In fairness of all parties, I'd ask your  
24 cooperation by not applauding or verbally expressing your  
25 reaction to testimony being presented. If we observe these

1        few rules, everyone will have the opportunity to present  
2        their testimony and help the Director to consider all  
3        viewpoints in making a final decision.

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O R A L   T E S T I M O N Y

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At this time, we will take oral testimony. Please  
identify yourself, spell your name, and identify who you  
represent for the record.

10

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14

MR. WOOD: Because of the number of people  
here to testify, a member of the audience suggested that it  
would be helpful if we ran through the first 10 names or so  
and then periodically update that. That seemed like a good  
suggestion from them.

15

16

17

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20

So the first 10 people that Selwyn will be calling  
forward to ask to testify are Diane Sosne, Helen Cyr, Rick  
Bender - I'm going to butcher some of these names, and at  
this point all I can do is apologize - Morris Mehrer, Moira  
Pomje, Jay Causey, Bruce Bernard, Scott Schneider, Daniel  
Koebel, and Knut Ringen.

21

22

That way you have some sense of where you are and  
the opportunity to prepare so that we can move things along.

23

24

MR. WALTERS: Diane Sosne; and Helen Cyr?

And you are?

25

MR. BEERY: Max Beery. And I was told that I



1 was signed in right after Diane Sosne.

2 (Discussion off the record.)

3 MS. SOSNE: Good afternoon. My name is Diane  
4 Sosne, S-o-s-n-e. I am a registered nurse and president of  
5 SEIU, District 1199 Northwest. I also serve on the  
6 executive board of the 1.3 million-member Service Employees  
7 International Union, AFL-CIO. With over half of SEIU's  
8 members employed in the healthcare sector, SEIU is the  
9 nation's largest organization representing healthcare  
10 workers.

11 On behalf of my Washington state-based local  
12 union, as well as our international union, I am here to  
13 pledge our strong support to WISHA for acting to protect  
14 Washington state workers from an epidemic of  
15 ergonomic-related injuries. We also hope that WISHA will  
16 seriously consider and incorporate our suggestion to  
17 strengthen this proposal by covering all hospitals, the  
18 first, and not the second round, of implementation.

19 SEIU and our members know all too well the human  
20 cost that ergonomic hazards pose to healthcare workers.  
21 That is why we were heartened to learn nearly a decade ago  
22 in 1990 that then U.S. Secretary of Labor, Elizabeth Dole,  
23 announced that the federal government would propose a  
24 national ergonomic standard to stem the tide of this  
25 crippling epidemic.

1                Nearly a decade later, it is now past the time for  
2                Washington state to act on its own to protect our workers as  
3                political gridlock on this issue at the federal level  
4                continues with no end in sight.

5                As these hearings continue around the state, you  
6                will hear firsthand from frontline healthcare workers, you  
7                will hear how healthcare workers put themselves in harm's  
8                way every day at work taking care of patients. You will  
9                hear how back injuries have ended healthcare careers for  
10              committed, experienced, and very skilled nurses and other  
11              caregivers.

12              And I might add that with the nursing shortage  
13              that is growing every day, we can't afford as a community to  
14              have more nurses and other healthcare workers taken out of  
15              the work force. You will hear the tragic toll such injuries  
16              also place on the families of these injured workers.

17              Now nationally among all industry sectors, the  
18              healthcare industry now reports more ergonomic injuries than  
19              any other. Among all occupations, hospital and nursing home  
20              workers experience the highest number of occupational  
21              injuries and illnesses, involving lost workdays due to back  
22              injuries. Nurses' aides report a greater percentage of  
23              injuries as back injuries than workers in any other  
24              occupation.

25              A three-year review of U.S. Bureau of Labor

1       Statistics annual survey data indicates that nursing and  
2       personnel care facilities have an occupational  
3       musculoskeletal injury and illness rate of 4.62 per 100  
4       workers per year, the highest among all three-digit  
5       standardized industrial classification codes.

6               Here in Washington State, if we just look at  
7       worker compensation claims among hospital workers in '97, we  
8       find that 3,590 hospital workers filed claims, with the  
9       majority reporting musculoskeletal disorders. Looking at  
10      registered nurses alone, 55 percent of their compensation  
11      claims were related to ergonomic hazards; 80 percent of  
12      these injuries were reported as being due to handling  
13      patients.

14             These back injuries and other musculoskeletal  
15      disorders take a huge economic and personal toll within the  
16      healthcare industry. Nationally, the nursing home industry  
17      alone spends more than \$1 billion each year in worker's  
18      compensation premiums. Through social security payments  
19      paid to disabled healthcare workers, taxpayers unwittingly  
20      shell out millions, if not billions, more resulting when  
21      healthcare employers fail to adopt comprehensive ergonomic  
22      programs in their workplaces.

23             The good news in the healthcare sector is that  
24      interventions have proven to dramatically reduce ergonomic  
25      injuries among healthcare workers. Healthcare employers,

1       that had invested in the purchase of patient mechanical  
2       assist and lifting devices, that have created lifting teams,  
3       and have implemented safe staffing levels, have realized  
4       significant drops in injury rates, as well as significant  
5       worker compensation premium reductions.

6               Now, according to federal OSHA, a nursing home  
7       with 2-- is an example of how effective it is -- with 245  
8       residents and 270 workers experienced 573 lost workdays in  
9       one year due to back injuries and paid worker comp premium  
10      of       1.5 million. After the employer purchased 12  
11      mechanical patient lifts for a total cost of \$60,000 and  
12      implemented a policy banning the lifting of residents unless  
13      more than one worker was present to assist, its workers'  
14      compensation premium dropped by 50 percent.

15             In another study, when patients and residents were  
16      surveyed, it was found that they actually preferred  
17      mechanical lifts as it made them feel more secure. Yet  
18      today, few nursing homes have acted voluntarily to implement  
19      these sound programs.

20             Similarly, the use of lifting teams in hospitals  
21      and other health care settings is limited despite published  
22      studies, demonstrating the effectiveness of this control  
23      strategy. In one large metropolitan hospital annual  
24      lost-time injuries decreased from 16 to 1 in one year after  
25      deployment of a lifting team, with the savings of \$144,000.



1 Yet again, few hospitals have adopted this back- and  
2 money-saving strategy.

3 Based on this evidence that we have presented to  
4 you today regarding the huge numbers of healthcare worker  
5 ergonomic injuries, the significant economic and human costs  
6 and the highly-feasible and documented methods to control,  
7 to reduce this hazard within the healthcare industry, we  
8 respectfully ask WISHA to adopt this rule with one  
9 identified change before the final rule is issued.

10 We do not believe that there are any justifiable  
11 reasons for delaying coverage to hospital workers beyond the  
12 first round of implementation.

13 Historically on matters of occupational safety and  
14 health, frontline caregivers have been treated as  
15 second-class citizens for far too long. While injury and  
16 illness rates continue to fall in many other sectors of the  
17 economy, in recent years, the rates for hospitals have more  
18 than doubled.

19 Has this industry been ignored by the regulators,  
20 because approximately 80 percent of the work force are women  
21 and disproportionately represented by people of color? In  
22 addition, many of these workers are also single parents who  
23 are heads of their households.

24 In closing, I want to add the SEIU urges WISHA to  
25 adopt this proactive rule as such and to consider this

1 evidence which clearly demonstrates that workers in  
2 hospitals should be included in this first round of the  
3 implementation schedule.

4 Thank you for the opportunity to testify.

5 MS. CYR: Hello. My name is Helen Cyr, C-y-r,  
6 and I am a nurse at Swedish Medical Center, Ballard. I have  
7 been there for 23 years, and I have three years of medical,  
8 surgical, and orthopedic experience in the state of New  
9 Hampshire. I am a member of the 1199's executive board, and  
10 I have been asked to come here to testify today because I  
11 have a back injury related to my job.

12 Most of the causes for injuries to nurses are from  
13 repetitive injuries like bending over the bed to take care  
14 of your patient, to take their blood pressure, to change  
15 their bed, to assist them to get up and perform their duties  
16 of daily living.

17 My particular injury happened to me when I was  
18 assisting to get an unconscious patient out of a chair back  
19 into bed, and that was the final repetitive injury that  
20 injured and ruptured a disc. Since then, I've had three  
21 surgeries in the last 20 years on my back, which has left me  
22 with a residual numbness in my right leg and repeated muscle  
23 spasms in my back. And now in order to perform my job, I  
24 have to wear a back brace. If I want to travel anywhere, I  
25 have to wear a back brace.

1           Other injuries that are also repetitive and happen  
2           to nurses are carpal tunnel syndrome. As evidenced by both  
3           braces on my hands, I have it in both hands. I am trying to  
4           avoid having surgery on them.

5           To go back to my back, I put in a Labor &  
6           Industries claim. It took seven months for them to identify  
7           that this was a valid injury, and in that seven months, if I  
8           hadn't had an assurance from my own insurance carrier to get  
9           my surgery done, I would have been out work, without a place  
10          to live, and without money to earn a means to support  
11          myself. However, I thankfully say, that after it kicked in  
12          and everything was paid that I am able to perform my job in  
13          nursing.

14          Some of the things that my employer has done, most  
15          recently in the past few years, not over this 20-year period  
16          of time, but basically in the past few, is they have  
17          provided a desk for me - well, not just for me; it's for all  
18          nurses - but they put a desk outside the patient's room.  
19          They are at my waist level so that I can do my documentation  
20          without having to bend or hunch over.

21          They have provided chairs for us that are better  
22          for your back than a normal chair like the ones we're  
23          sitting in today. They have provided Hoyer lifts for us.  
24          They have provided to a certain extent us to be able to  
25          have, not lift teams per se, but you are able to get help to

1 help you lift or turn a patient.

2 They provided emergency stretchers for us. If we  
3 have a patient that falls on the floor, we can put them on  
4 this and get them back into bed. That's what's been done.  
5 And how this has affected my daily life, it's a day-to-day  
6 process for me.

7 If I have spasms in my back, if I have pain in my  
8 leg, I cannot work. It takes away from my sick time, and  
9 because my hospital has a policy that says that you can only  
10 have six sick occurrences a year, believe me, I try to  
11 minimize it.

12 I do want to thank you folks for giving me the  
13 opportunity to say what I had to say today.

14 MR. BEERY: Good afternoon. My name is Max  
15 Beery. I do want to apologize. I don't do well in front of  
16 groups. I'm a nurse at Harborview. I have been up at  
17 Harborview since 1972, a few years doing other things, but  
18 probably 24 years at Harborview. I've worked at Fred  
19 Hutchinson, bone marrow transplant. I've been out and  
20 worked in Milwaukee, so I've had a few years of nursing.

21 One of the things I've noticed in my experience is  
22 that the injuries that happened to the nurses are usually  
23 specific events. I appreciate - and I want to make it clear  
24 that I support this proposal a lot - and I appreciate the  
25 nature of your qualifiers for whether they be called hazard

1        zones; I can't remember what you call them.

2                But almost all of these qualifiers are based on  
3        repetitive stuff happening, which, as Helen pointed out,  
4        happens to us a lot. But, yet, it's usually specific  
5        injuries that pull us off the job. I mean, you can't go to  
6        any hospital in this town and ask a nurse if they're  
7        pain-free or if they don't have back pain, unless they just  
8        started in this.

9                So, I was kind of kind concerned that the  
10        qualifiers don't address those specific injuries. In my  
11        case, over the last 20-some years, 27 years, I've had two  
12        time-loss injuries, that both were specific injuries.

13                One, I was dealing with a retired judge who had a  
14        frontal lobe CVA, who was very impulsive, and I was  
15        transferring him out of bed, hurt my back; this was about 18  
16        years ago. I wasn't able to even raise my arm. I'd raised  
17        three young kids - they're actually still young - and I've  
18        never been able to lift them up off the ground; they've  
19        always been handed to me. So that's the impact on my life.

20                Last December, 1998, I was assisting with a  
21        600-pound patient, and was very conscious of my back,  
22        protected it fine, but was involved with holding a leg up  
23        for probably 20 minutes. Now that leg weighed probably 185  
24        to 200 pounds. I'd watched these guys push weights up; they  
25        throw them down right away; they don't, you know, hold them

1 up; and I press a cup of coffee at most normally.

2 So, I wasn't at all expecting my arm to get  
3 injured, but I pulled two muscles in this arm. I've just  
4 returned to work, and I'm totally recovered, a lot of time  
5 loss.

6 So, I guess my concern in the policy that you're  
7 proposing is that it doesn't address the specific injuries,  
8 which is, to me, kind of contrary to every L&I claim that  
9 I've seen always has to go back to a specific injury. They  
10 don't deal with the ergonomics of these repetitive injuries  
11 that this uncovers.

12 I'm concerned with, the employer is the person who  
13 defines whether or not they have to comply with these rules.  
14 I don't see that there's any input from the employees. And  
15 it could very easily -- A lot of my policies at Harborview  
16 could say, well, you don't lift 50 pounds 10 times a day  
17 every single day; on Friday you didn't, you know. You don't  
18 lift 75 pounds every day, but -- which it would be hard for  
19 you to define, because of all you do.

20 But there are very easy ways for the employer to  
21 get out without -- I didn't see anything from the employees  
22 in helping to identify whether we do need to -- or if we do,  
23 their companies apply for this.

24 I saw in reading through the proposal, there was a  
25 lot of emphasis on education. I'd been educated for years

1 on how to move patients, and I do think education's  
2 important, but I think it deemphasizes using the assisting  
3 devices.

4 I remember a time when Hoyer lifts were all over  
5 at Harborview, but I haven't seen a Hoyer lift in years at  
6 Harborview. We've gotten Big Boy beds, Big Boy chairs to  
7 accommodate these huge folks.

8 I was concerned that in the opening statement you  
9 said that none of this will be telling employers how to  
10 implement follow-up, and yet you can make assessment  
11 guidelines. There's a minimum number of people that can do  
12 certain SIC procedures.

13 As Diane mentioned, the nurse-in-charge is really  
14 packed in as we're tending to do more with less time. I  
15 can't wait for four or five nurses to show. They won't show  
16 up - they're too busy - to do something. So they're  
17 always -- They're always busy. And there's not a person in  
18 this room that will not be impacted by a nurse in their  
19 life. So I think it's important to everybody that we get  
20 some support there.

21 That's all. I thank you.

22 MR. WALTERS: Thank you.

23 Rick Bender, Morris Mehrer, and Moira Pomje.

24 UNIDENTIFIED SPEAKER: Moira had to leave to  
25 go back to work.

1 MR. WALTERS: Rick?

2 MR. BENDER: Okay, for the record, I'm Rick  
3 Bender, spelled B-e-n-d-e-r. I'm president of the  
4 Washington State Labor Council.

5 The Washington State Labor Council and its  
6 affiliates representing over 400,000 AFL-CIO members here in  
7 the state of Washington support and applaud Labor and  
8 Industries' efforts under these new proposed ergonomics  
9 rules.

10 This rule is one of the most significant safety  
11 and health rules ever proposed for working people in  
12 Washington state. This rule is aimed at prevention, to stop  
13 these injuries before they happen. And to us, that just  
14 makes common sense. We can no longer look to short-term  
15 solutions to these long-term problems in the workplace.

16 Every day most workers in our state face a  
17 workplace that has failed to address the issues of  
18 work-related musculoskeletal disorder. This past year,  
19 50,000 state-funded worker's comp claims were  
20 musculoskeletal-related, costing the state fund \$340  
21 million.

22 This does not take into consideration the human  
23 factor of pain and suffering and lost wages. Whole families  
24 suffer when a worker is injured, and there is no price tag  
25 on human suffering. We know for certain that there are many



1 more workers who do not file claims for fear of losing their  
2 jobs. The seriousness of this situation and its impact on  
3 working cannot be overstated.

4 Thirty-six percent of worker comp claims between  
5 1989 and 1996 were MSD-related; and 52 percent were  
6 compensated claims with more than four days of lost work.  
7 This speaks volumes to why this rule's being proposed and  
8 needs to be adopted.

9 Musculoskeletal disorders are the most costly  
10 occupational injuries in the United States. The national  
11 OSHA sees this as a serious problem this past month and  
12 proposed their ergonomics rule, which was eight years in the  
13 making.

14 WISHA efforts need to be commended. This proposed  
15 rule is well thought out and one we can all live with. They  
16 sought the input from all the stake holder groups, and from  
17 this, developed their best possible rule.

18 Business will say they need more scientific proof.  
19 Quite frankly, we're getting tired of this old argument,  
20 because if we do nothing, that means more and more workers  
21 are being injured every day.

22 The National Academy of Science and NIOSH have  
23 done these studies. Their conclusion: There is a positive  
24 relationship between MSDs and workplace risk factors; and  
25 two, ergonomic programs and intervention can reduce the

1       number of injuries.

2               Business will say pilot programs are the best ways  
3       to test ergonomics rules. Businesses have had years to test  
4       pilot programs and bring ergonomic solutions into the  
5       workplace, and yet, most have done nothing. Business will  
6       say it costs too much money. What is it costing them  
7       annually to do nothing?

8               Business will say that small business will be hurt  
9       the most. It's important to know that this is the longest  
10      phase-in of any rule every adopted by L&I for small  
11      business, and they'll have six and a half years, well, six  
12      years, to comply. To be honest with you, I would like to  
13      see that time phase cut in half. We think six years is too  
14      long.

15              The businesses that have developed ergonomic  
16      programs conceive of benefits and cost savings, reduced  
17      claims, higher productivity, and worker morale. It's good  
18      business. They should have the courage to speak up and  
19      support this rule, because we will work with them to make  
20      these rules work.

21              Business throughout this rule-making process has  
22      tried to put much of the blame for MSDs back on the worker,  
23      not for what they do at work, but for what they do outside  
24      the workplace: their lifestyles, their hobbies, such as  
25      knitting and sports, you name it. To us, this shows a

1       disrespect for the workers in our state. Business needs to  
2       be reminded often that their wealth is made possible by the  
3       goods and services produced by labor.

4               In conclusion, as we evolve as a society, we must  
5       ask ourselves these questions: What type of workplace do we  
6       see in the future for our children and grandchildren?  
7       What steps are we willing to take to make their future more  
8       positive?

9               Here and now, we have that opportunity to take the  
10      next steps necessary to ensure healthy workplaces. This is  
11      going to be a challenge, but anything worthwhile always is.  
12      I can say this, that once these rules are adopted, we will  
13      work with the employers and management to find solutions to  
14      problems. There is no problem that we cannot solve if we  
15      work together. Time and history has proven that.

16              It is time to start setting the standards for  
17      workplaces of the 21st century. We will continue to work  
18      towards the adoption of this rule for all the working people  
19      in the state of Washington, and I thank you very much.

20              MR. WALTERS: Thank you.

21              MR. WALTERS: Thank you.

22              Morris?

23              MR. MEHRER: My name is Morris Mehrer. I'm a  
24      wall and ceiling contractor and member of the Northwest Wall  
25      and Ceiling Contractors Association. Our association

1 employs around 3,000 union employees in the area.

2 I have a rather little different slant on this.

3 I would really think it would be beneficial to the  
4 construction industry and to the construction workers if you  
5 went back to Olympia and scrapped this plan.

6 It's another government regulation that takes away  
7 the freedom from the workmen, freedom from the contractor,  
8 and it's a problem that we face every time there is a new  
9 cycle of regulations coming out of L&I. It provides cushy  
10 jobs for L&I directors and administrators, but it's at the  
11 expense of the contractors and the workmen.

12 When I discussed this with our workmen, I mean,  
13 they're actually embarrassed. They were embarrassed because  
14 of the administration in our state that inflicts this type  
15 of treatment on their people. I'm not accustomed to making  
16 testimony, so it's quite short. But my message is, I think  
17 it's a very bad plan.

18 MR. WALTERS: Thank you.

19 Jay?

20 MR. CAUSEY: Thank you, Mr. Moderator. My  
21 name is Jay Causey. I'm a privately practicing attorney in  
22 the city of Seattle. I've been handling almost exclusively  
23 worker's compensation claims for the past 22 years. I've  
24 over that period of time chaired a number of state and  
25 national worker's compensation plaintiff attorney

1       associations.

2               I'm current president of the Workplace Injury  
3       Litigation Group, a national association of worker's  
4       compensation claimants' attorneys, headquartered in Denver,  
5       Colorado. I will presume to speak for that organization  
6       today.

7               First of all, let me say that WILG, as we call it,  
8       will be submitting written comments in due course for your  
9       consideration and specifically attempting to address the  
10      questions that you posed in your Ergonomic Update No. 5, and  
11      we'll try to deal with those specific questions. Today my  
12      comments will be brief and general.

13              We, first of all, commend Washington state's  
14      approach to ergonomics in taking the prevention-based  
15      approach as opposed to the OSHA rule, which we in the  
16      Workplace Injury Litigation Group are monitoring, which is  
17      an injury-based rule.

18              As a matter of fact, a number of attorneys from  
19      the litigation group will be presenting testimony in  
20      Washington, D.C. later on in, I think, February concerning  
21      the OSHA rule. But to us, the Washington rule is  
22      preferable; it avoids a lot of the complications of the OSHA  
23      rule that medical management and medical removal protection  
24      involve.

25              Let me just make some very general comments. We

1 have heard a little bit of discussion about the science of  
2 ergonomics. I certainly hope that in the ensuing weeks and  
3 months that the debates over this ergonomics rule does not  
4 get bogged down in a discussion of whether there is valid  
5 science. The science is overwhelming.

6 Your website has all of the appropriate citations  
7 as to what the science of ergonomics has been; there's no  
8 question that the proposition, the repetitive activities  
9 involving even minimal force, awkward positions, repetitive  
10 contact with body parts, vibrations, all cause a variety of  
11 work-related musculoskeletal disorders. Twenty-two years of  
12 worker's compensation practice involving thousands of claims  
13 has empirically shown that to me.

14 And the other interesting statistic that has  
15 been brought out in the materials in which you alluded to  
16 today is that while the incidence of workplace injuries  
17 generally - it has decreased over the last decade by  
18 some 28 percent, or at least from 1990 to 1997 -  
19 ergonomically-based injuries have only dropped somewhere  
20 between 5 and 6 percent. And I can guarantee you that is  
21 exactly what I see in my practice.

22 The percent of my practice that involves  
23 ergonomically-based injuries is a very much more substantial  
24 and large part of my overall practice than it was 10 years  
25 ago. The fact is that wornout body parts are appearing on

1 the scene in this state far more frequently now than  
2 traumatically-injured body parts.

3 Rick Bender, whose comments I endorse in whole,  
4 also talked about another very insidious part of this  
5 process, which is simply the nonreporting of injuries that  
6 arise out of ergonomic issues. And I can guarantee you I've  
7 seen that for 22 years.

8 Let's talk a little bit about the cost. I don't  
9 know whether your figures of 28 to \$31 per annum per  
10 employee is exactly correct; I'm sure the business community  
11 has a different slant on that; I'm sure Mr. Mehrer has a  
12 different slant on that.

13 But I can guarantee you that the vast majority of  
14 ergonomic injuries that I see in my practice were caused by  
15 carelessly, thoughtlessly arranged work stations that could  
16 be changed, that involve minimal issues of worker height or  
17 reach adjustments that could be changed for zero or very  
18 little cost. And that is something I've seen over two  
19 decades now.

20 We had a case about 10 years ago in my practice  
21 when ergonomics was just coming onto the scene, onto the  
22 radar scene, as a major issue in this state and in workplace  
23 issues generally. We called it "the case of a jillion  
24 jounces." It involved a 45-year-old forklift driver  
25 completely incapacitated by low back and leg pain from

1       degenerative disc disease.

2               He'd had no specific injury, but he'd had 19 years  
3       of driving a forklifts, and when we got into the claim, we  
4       did the arithmetic and figured out that over that period of  
5       time, at the rate of one to three jolts per minute per eight  
6       hour shift of his driving, he had sustained somewhere in the  
7       vicinity of 5 - 1/2 to 7 million minitraumas to his back  
8       over his career.

9               I submit that if you look into actual specific  
10       workplace injury and ergonomic injury situations, you will  
11       find this not an apocryphal thing; it is not an unusual  
12       thing. You are going to see it duplicated over and over and  
13       over. Gary Moore said a while back, I think in a press  
14       Conference, and I'll expand slightly on that, that we can  
15       get the spare parts for the forklift, but we can't get the  
16       spare parts for the injured worker; there aren't any.

17              As I said, we'll submit substantive responses to  
18       the questions you've posed in your Ergo Update, but one  
19       thing that occurred to me as I was looking at your  
20       Appendix B, and I think that is one of the issues that you  
21       wanted addressed, and that's another sort of illustrative  
22       reason for mentioning the case of a jillion jounces. It  
23       seems to me that in your impact level grid there - I think  
24       it's the repeated impact - you need one for the spine as  
25       well as knees and extremities, and I think that should be



1 looked into.

2 And I will second what Rick said. You know, while  
3 we as worker's compensation attorneys in the state tussle on  
4 a regular basis with the department on various issues, I  
5 think I can speak for all worker's comp practitioners when  
6 we commend the department for drafting a well-drafted,  
7 easy-to-follow ergonomics rule which provides more than  
8 adequate guidance to employers on how to identify MSD  
9 hazards and caution-zone jobs, and is more than fair to  
10 employers in terms of the implementation scheduled time  
11 frames. I agree with Rick Bender; we don't need any more  
12 pilot programs. The time is now.

13 Thank you.

14 MR. WALTERS: Thank you very much.

15 So that we will all know, we will take a  
16 five-minute break at three o'clock.

17 I now call Dr. Bruce Bernard, Scott Schneider, and  
18 Daniel Koebel. And so that those of you who are here know,  
19 we will then next call Knut Ringen, Mark Hadfield, Roger  
20 Yockey, Jan Bussert, Keith Brossard, Ingrid Rasmussen,  
21 Lincoln Ferris, Richard Lind, Matthew Bernard, Maureen Bo,  
22 and Janet Hays.

23 Bruce Bernard?

24 MR. BERNARD: Okay. My name is Bruce Bernard,  
25 and it's spelled B-e-r-n-a-r-d, and I'm from NIOSH, the

1 National Institute for Occupational Safety and Health, and  
2 today I'm testifying on behalf of the NIOSH Director, Dr.  
3 Linda Rosenstock, who greatly regrets that her schedule  
4 would not permit her to be here today.

5 It may surprise you that a federal agency is  
6 providing testimony at hearings on the proposed ergonomics  
7 rule in Washington state. However, this is an important  
8 issue that affects the lives of millions of workers and  
9 their families in every state.

10 Much of the important work in addressing the  
11 nationwide problem is happening at the state level, and it's  
12 important to us at the federal level that this rule-making  
13 activity is occurring here in Washington state, as it's seen  
14 as a catalyst for other states to effectively deal with the  
15 problem of musculoskeletal disorders.

16 Now, NIOSH is a public health research institute  
17 within the Centers for Disease Control and Prevention, a  
18 part of the Department of Health and Human Services. NIOSH  
19 is the only federal agency mandated to conduct research and  
20 train professionals to prevent workplace hazards.

21 Now, during our 29 years of existence, NIOSH has  
22 amassed research and experience that establishes a clear  
23 relationship between workplace hazards and musculoskeletal  
24 disorders. From this work, we know there is adequate  
25 science base for rule-making on an ergonomic standard. The

1 rule that Washington state has proposed, the scientific  
2 standard to identify workplace hazards, complete hazard  
3 analysis, and address and reduce these hazards, is strongly  
4 rooted in science.

5 The proposed ergonomics rule, in fact, offers  
6 valid and feasible scientific recommendations that will, if  
7 implemented, reduce these occupational health problems in  
8 the state of Washington. At NIOSH, we have learned a great  
9 deal about work factors, exposures, and health conditions in  
10 populations through our research.

11 In 1997, I edited the most comprehensive review of  
12 the occupational/epidemiologic literature on musculoskeletal  
13 disorders to date. With a team of NIOSH researchers, we  
14 systematically reviewed and analyzed about 2,000  
15 occupational/epidemiologic studies and ended up focusing on  
16 the best 600. And these were conducted in a variety of  
17 workplaces, from meat-packing plants to offices, garment  
18 factories to aluminum mills. And I'd like to present you an  
19 official copy to be entered into the public record.

20 This NIOSH document also went through a  
21 particularly rigorous and comprehensive peer review by 24  
22 reviewers outside of NIOSH, including occupational health  
23 and safety specialists, such as medical scientists,  
24 epidemiologists, consultants, private industry, and labor  
25 experts. And based on this review, NIOSH concluded that the

1 epidemiologic literature clearly supports a causal  
2 relationship between work activities and musculoskeletal  
3 disorders of the back, the neck, and the upper extremities.

4 Many of the factors used too to identify the  
5 caution zone jobs in the Washington state proposed  
6 ergonomics rule were clearly identified in the NIOSH review  
7 as having sufficient evidence for their role in contributing  
8 to work-related musculoskeletal disorders. The proposed  
9 rule mentions the 1991 NIOSH lifting equation, which you  
10 heard about from previous testimony, and I'd like to  
11 elaborate on that just a minute.

12 In 1991, responding to the serious problem of back  
13 pain, NIOSH developed the NIOSH lifting equation, and this  
14 is a practical tool for figuring out the physical demands of  
15 lifting tasks. NIOSH revised it in 1993. And from this  
16 lifting equation, you can figure out the lifting index which  
17 gives an estimated value for the physical demands for a  
18 particular lifting job.

19 NIOSH researchers found that most of the working  
20 population should be able to perform jobs with the lifting  
21 index of less than one without a significant risk of low  
22 back pain. The risk begins to increase as the lifting index  
23 exceeds one.

24 Now, in a 1991 NIOSH study that was mentioned  
25 validating the lifting equation, we found that workers in

1 jobs with a lifting index greater than two were nearly twice  
2 as likely to have significant low back pain. And these  
3 results provide additional scientific support for the  
4 lifting limits proposed in the state of Washington  
5 ergonomics rule.

6 For low back disorders, NIOSH has found evidence  
7 of association with lifting and forceful movements. Those  
8 studies, using objective measures to examine specific  
9 lifting activities, found a dose response relationship  
10 between exposures and low back.

11 For disorders of the neck and shoulder region, the  
12 literature showed that working groups are an increased risk  
13 for neck/shoulder disorders when they have jobs with extreme  
14 working postures, such as working with the hands above the  
15 head or arms above the shoulder level, or prolonged static  
16 loads such as working overhead holding tools.

17 Combinations of highly repetitive and forceful  
18 work involving the arm and hand affect the shoulder and neck  
19 regions as well, and these studies provide sufficient  
20 evidence for work-relatedness.

21 There are several risk factors with the elbow,  
22 hand, and wrist that the Washington rule will address by its  
23 focus on reducing workplace exposures. We have reviewed  
24 these, and they are consistent with the science as well.  
25 Combined work factors of forceful and repetitive use of

1 hands, wrists, and elbows are associated with carpal tunnel  
2 syndrome, tendinitis, epicondylitis.

3 The rule addresses vibrating tools as well, and  
4 there's substantial evidence as the intensity and duration  
5 of exposure to vibrating tools increase, the severity of  
6 numbness and pain with exposure to cold temperatures, as  
7 well as the risk to hand/arm vibration syndrome also  
8 increases.

9 In 1999 the National Academy of Sciences found  
10 compelling evidence from numerous studies that as the amount  
11 of biomechanical stress is reduced, the prevalence of these  
12 disorders is reduced; and this is the approach that  
13 Washington state rule clearly uses.

14 The science of musculoskeletal disorders also  
15 indicates that workplace interventions are effective in  
16 prevention, and the effectiveness of ergonomic programs was  
17 a resounding message by labor, industry, businesses,  
18 universities, healthcare and professional societies at two  
19 conferences cosponsored by NIOSH in 1997 and 1999. The  
20 conferences were attended by over 1,700 people who shared  
21 their successful ergonomic programs of how they reduced lost  
22 work time and cut worker's compensation costs.

23 Now NIOSH has also published the Elements of  
24 Ergonomic Programs that I would like to submit for the  
25 record. The primer has similar elements when you compare it

1 to the Washington State rule. We promote that effective  
2 programs require management commitment, employee  
3 involvement, evaluation of problem jobs, institution of  
4 controls, and initiating good follow-up.

5 This has been on NIOSH's best-seller list.  
6 Employers have told us they needed practical solutions to  
7 recognize hazards and prevent these problems, which we also  
8 see as the premise to the Washington proposed rule.

9 So, in conclusion, the most important messages I  
10 hoped to have conveyed today are that work-related  
11 musculoskeletal disorders remain one of the most serious  
12 problems facing the American work force. The scientific  
13 studies have shown there is a clear relationship between  
14 work factors and musculoskeletal disorders, and that  
15 solutions, such as ergonomic programs, have reduced pain,  
16 disability, worker's comp costs, while improving  
17 productivity in workplaces of all sizes across a broad range  
18 of industries.

19 Frankly, the science is strong, and the bottom  
20 line is we know enough now to prevent or reduce the severity  
21 of many of these disorders, and the Washington state  
22 proposed ergonomics rule is an effective and scientific  
23 valid way to do so. Now, we will continue to add to our  
24 knowledge base about the causes and solution of these  
25 disorders, but in the meantime, to deny what we already know

1       about these complex problems is to deny the American worker  
2       the benefits of our knowledge.

3               Thank you very much.

4               MR. WALTERS: Thank you.

5               Scott?

6               MR. SCHNEIDER: Thank you. My name is Scott  
7       Schneider, S-c-h-n-e-i-d-e-r. Thank you for the opportunity  
8       to testify on this important proposed rule.

9               I'm the Director of Occupational Safety and Health  
10       for the Laborers' Health and Safety Fund of North America.  
11       We are a joint labor-management organization that provides  
12       technical assistance on safety and health issues to the  
13       800,000 members of the Laborers International Union of North  
14       America and the contractors who employ them. We represent  
15       mostly construction workers.

16              I previously worked for five years as ergonomics  
17       research director for the Center to Protect Workers' Rights,  
18       the research arm of the Building and Construction Trade  
19       Unions. The Center has a wide-ranging research program on  
20       ergonomic issues for construction with work at five  
21       universities around the country on ergonomic risk factors  
22       and solutions for a variety of construction trades.

23              The results of this research have been published  
24       in a number of journal articles, presented at numerous  
25       symposia and collected in various proceedings. Many of



1       these presentations are included in a publication from the  
2       Center of the proceedings from a construction ergonomics  
3       symposium at the International Ergonomics Association  
4       meeting in Finland in 1997 where over 60 papers were  
5       presented.

6               While at the Center, I also helped produce two  
7       videos on construction ergonomics and a checklist on  
8       construction ergonomics that's been used on construction  
9       sites by the Army Corps of Engineers, insurance companies,  
10      and others.

11             In the Washington state proposal, several segments  
12      of the construction industry have been identified to first  
13      implement the proposed rules. We believe this is  
14      appropriate, as all the statistics show that construction  
15      have one of highest risks for these types of disorders.

16             The latest data from the Bureau of Labor  
17      Statistics shows that in 1997 sprain-and-strain lost workday  
18      injury rates were about 46 percent higher in construction  
19      than the average for all general industry. Injury rates  
20      were even higher in some trades, like roofing and sheet  
21      metal, masonry and plumbing.

22             Even though there's been a significant decline in  
23      rates over the past four years, that decline has occurred  
24      across all industries, and construction is still  
25      disproportionately high. Only the transportation sector

1 appears to be higher for sprain-and-strain injuries.

2 Other injury data from the BLS follow-back survey  
3 of injured workers, the Construction Safety Association of  
4 Ontario, the Army Corps of Engineers, worker's compensation  
5 data, data from medical studies, and surveys of the  
6 construction workers that the National Health Interview  
7 surveyed and a large survey of 84,000 construction workers  
8 in Sweden, also identify musculoskeletal disorders as the  
9 major injury problem for construction workers, accounting  
10 for over one-third of all lost workday injuries and almost  
11 half of all worker's comp costs.

12 I have summarized the data in a paper I developed  
13 three years ago, which I will submit with my testimony.  
14 While injury rates have dropped somewhat since I wrote that  
15 paper, the trends are the same. The worker's comp data from  
16 Washington state, which you have summarized, only  
17 underscores this point.

18 While there is widespread recognition that  
19 musculoskeletal disorders, particularly back injuries, are a  
20 major problem in construction, there is less recognition of  
21 the solutions that exist to reduce the risk of injury. Many  
22 people believe that construction work is just hard and these  
23 injuries are inevitable.

24 While there have been few systematic studies of  
25 ergonomic interventions in construction, in part due to the

1 temporary nature of the work, which makes intervention  
2 research very difficult, there is a wide range of potential  
3 interventions that show great promise in reducing the risk  
4 of injury.

5 I've collected a database of 194 ergonomic  
6 interventions for construction which I will now summarize.  
7 A list of these interventions is also attached with my  
8 testimony. They're also discussed in two published papers,  
9 also attached, one from the 1994 American Industrial Hygiene  
10 Association Journal, and one from the 1999 Occupational  
11 Ergonomics Handbook.

12 I have divided the solutions into six basic  
13 groups: Materials Interventions, Tool and Equipment  
14 Interventions, Process Interventions, Training  
15 Interventions, Exercise Interventions, and Personal  
16 Protective Equipment. I'll review each one briefly.

17 Materials interventions are changes in  
18 construction materials that are used that, in turn, reduce  
19 the risk of injury. A few examples would be switching to  
20 smaller size, and lighter weight drywall, a change which I  
21 know has been discussed here in Washington state quite a  
22 bit.

23 A Finnish study recently published showed smaller  
24 drywall boards to be much easier for workers to move by hand  
25 because they're lighter in weight and they've increased

1 visibility. Another example is smaller, half-weight, cement  
2 bags, 47 pounds instead of 94 pounds, making them easier to  
3 lift and carry.

4           Masonry blocks have been developed with handholds  
5 to make them easier to lift, as well as half-weight blocks  
6 that have the same strength as regular blocks that were  
7 developed by the University of Nebraska and the Army Corps  
8 of Engineers. Fiberglass ladders are much lighter and  
9 easier to carry than wooden ladders.

10           Tool and equipment interventions are the ones most  
11 people think of when they think of ergonomics. I've brought  
12 several tools with me as examples. In the past five years,  
13 there have been many tool manufacturers who have jumped on  
14 the ergonomic bandwagon and hired ergonomists to develop  
15 better and safer tool designs, from ergonomic hammers with  
16 more comfortable shock-absorbing handles to pliers with soft  
17 handles and spring returns to reduce the stress of opening  
18 them after each use.

19           The use of portable power tools has increased  
20 dramatically in construction as batteries have gotten  
21 lighter and more powerful. Cordless screw guns have become  
22 commonplace in construction over the past few years,  
23 reducing the repetitive use of screwdrivers by hand and the  
24 force that had to be used.

25           There are simple pieces of equipment, like drywall

1 carrying handles and a mortar pan stand to raise the height  
2 of the pan, which costs less than \$50 and can make work much  
3 easier. A D-handle attachment for a shovel costing less  
4 than \$20 has been shown to reduce awkward postures during  
5 shoveling.

6 There are simple carts for moving glass or  
7 drywall, vibration-dampened jackhammers and equipment for  
8 moving them on and off of trucks. A retrofit for pickup  
9 trucks even exists to lower the bed to the ground level to  
10 make it easier to load and unload. Lifts exist to make work  
11 overhead easier by bringing the worker closer to the work  
12 and allowing them to position themselves better.

13 Attachments to tools exist to allow workers to  
14 fasten insulation to a roof deck from a standing height or  
15 fasten drywall overhead from shoulder level. New cab  
16 designs for construction equipment makes it easier to  
17 operate the equipment and are both more comfortable and more  
18 productive.

19 Rebar tying equipment is now available in the US  
20 to allow workers to tie rebar from a standing height and  
21 without the wrist twisting required by the manual method.  
22 Manufacturers of this equipment claim important productivity  
23 gains from its use.

24 Process interventions attempt to change the way  
25 the work is done. They can range from simple changes that

1 workers can make, like short rest breaks called micropauses,  
2 to job rotation; better techniques, like proper lifting; and  
3 engineering changes.

4 In one case, a tunnel was being built with a drop  
5 ceiling. Thousands of holes had to be drilled overhead to  
6 hang the ceiling, producing stresses from overhead work, as  
7 well as potential exposures to silica. On a second tunnel,  
8 the contractor required concrete sleeves to be poured into  
9 the ceiling so the holes did not have to be drilled,  
10 avoiding those ergonomic risks and silica exposures.

11 A Swedish study showed that short breaks of about  
12 30 seconds every 15 -- 10, 15 minutes, resulted in less  
13 fatigue and higher productivity among drywall installers. In  
14 some countries, like Germany and Sweden, weight limits have  
15 been set for masons, forcing employers to use mechanical  
16 lifts for blocks over 20 kilograms. Productivity increased  
17 as they switched to double-size blocks.

18 In Holland, Arbouw, a joint labor-management  
19 construction organization, has developed weight limits for  
20 construction work. One construction company in Maine has  
21 instituted a 50-pound limit for manual materials handling,  
22 based on the NIOSH lifting guide, for their workers and  
23 found a reduced injury rate.

24 Simpler changes, like providing tables for workers  
25 to bring their work to waist-height, can make work much

1 easier. Plumbers often use pipe stands to raise their work  
2 up. Merely keeping cutting tools sharp and in good  
3 condition helps by reducing the force required for cutting.

4 The most important work process changes that can  
5 be made, and likely the most effective, are changes in work  
6 organization. By better controlling the work process flow  
7 and the flow of materials on the job, a lot of manual  
8 handling can be avoided. By ensuring that materials are  
9 delivered on time and to where they are going to be used,  
10 manual handling is reduced.

11 By storing materials on racks and improving  
12 housekeeping, materials are easier to access, and  
13 musculoskeletal injury risk is reduced. Even having  
14 policies requiring two-person lifts for heavy materials,  
15 which is a requirement in some union contracts, and making  
16 that workers know when they should ask for help can make a  
17 difference.

18 One insurance company in California developed a  
19 special program for reducing musculoskeletal injuries by  
20 reducing materials handling called the "Smart Moves"  
21 program.

22 Another process change in construction is the  
23 development of ergonomic intervention teams or projects.  
24 Arbouw, in Holland again, has developed teams of  
25 construction workers and contractors to identify ergonomic

1 interventions for scaffold erectors, one of the highest risk  
2 occupations in construction, and identified a number of  
3 changes. Improvements were quantified by showing a  
4 reduction in manual handling and awkward postures as well as  
5 reductions in heart rate.

6 Arbouw has produced a number of what they call "A"  
7 documents, recommending best practices for several trades,  
8 including glaziers, roofers, paving stone workers,  
9 bricklayers, and scaffold erectors. Unfortunately, only the  
10 scaffold erectors document has been translated into English  
11 thus far, which I'll submit also. They've also developed  
12 whole new systems to reorganize materials delivery in  
13 bricklaying and glass transport, utilizing simple carts and  
14 hoists.

15 There are a number of training programs on  
16 ergonomics that have been developed in recent years  
17 specifically for construction workers. Mostly notably are  
18 the Carpenters Union program and the Building Trades "Smart  
19 Mark" module. The Carpenters program is a four-hour  
20 awareness module that has been taught to thousands of  
21 apprentices over the past few years and developed and  
22 piloted here in Seattle.

23 The Building Trades program is a one-hour  
24 awareness module which is now being distributed to building  
25 trades apprenticeship programs across the country and been



1 approved by OSHA as a part of the OSHA 10-hour training  
2 program, required by many contractors and owners for workers  
3 to whom they hire.

4 These programs teach more than just proper  
5 lifting. They discuss the risk factors present and how they  
6 can be reduced. They focus on changing the work more than  
7 changing individual behavior.

8 Exercise programs have become popular in  
9 construction. Many companies now have workers doing 10  
10 minutes of stretching exercises prior to work. Such  
11 programs have been in use in Sweden for over 10 years.

12 Two studies, one in Sweden and one here in the US,  
13 in Oregon, have investigated their value and found that  
14 workers generally perceive a benefit from them, feeling they  
15 are more aware of how they work, more cautious, and feeling  
16 better at the end of the day.

17 Many workers continue to perform these stretches  
18 after they leave the job and on weekends. Some insurance  
19 companies now develop stretching programs for their  
20 construction clients.

21 While engineering and administrative changes are  
22 most effective in reducing the risk of injury, there will  
23 always be risk factor exposures in construction that cannot  
24 be reduced and require the use of personal protective  
25 equipment.

1                   For example, carpet installers, roofers, sheet  
2 metal workers, and concrete finishers have to perform a lot  
3 of work at floor level on their knees. Knee pads are an  
4 important part of such work. Many new varieties of knee  
5 pads now exist that are more comfortable and easier to wear.  
6 Some slip into pockets in front of the knee so the worker  
7 doesn't have to strap them on and have the straps bind the  
8 back of their legs.

9                   There are also shoulder pads available for workers  
10 who have to carry materials on their shoulders. Shoe  
11 inserts are available to make standing on concrete, an  
12 important risk factor for back injuries, more comfortable.  
13 In Sweden, neck pillows are used for workers who have to  
14 work overhead all day installing drop ceilings or ductwork  
15 or painting.

16                   There's no evidence, however, that back belts have  
17 any protective effect on musculoskeletal injuries in  
18 construction, and they are not recommended by NIOSH or in  
19 our training modules.

20                   In other words, there are a lot of ergonomic  
21 interventions available to make construction work easier and  
22 reduce the risk of musculoskeletal injuries. We believe  
23 that these interventions will also raise productivity as  
24 well.

25                   A study of over 3,000 construction workers in Iowa

1 found that one of the major problems they had was that  
2 40 percent of the workers said they had to work while hurt.  
3 Many continue to work because they don't want to miss work,  
4 but their injuries can reduce their productivity. By  
5 preventing these injuries or making the work easier, we can  
6 certainly raise productivity significantly.

7 We also believe the proposed regulation will speed  
8 the adoption of interventions in construction, and for that  
9 reason support its adoption and application in construction.

10 Finally, in reviewing the proposal, we believe  
11 there needs to be more attention paid to how the proposal  
12 would work in construction, where it's a temporary  
13 workplace. The training requirements should be easy to  
14 implement in construction, particularly in the union sector,  
15 where training programs already exist, and there is a large  
16 infrastructure of apprenticeship and training programs and  
17 facilities.

18 The difficult part of the rule to implement will  
19 be the hazard identification and correction sections.  
20 Contractors can identify risk factors associated with their  
21 work that their employees do, but it may be difficult to  
22 estimate how long employees will be exposed to those risk  
23 factors, as these may vary from day to day or job to job.

24 There are tools available for estimating the  
25 amount of time spent working overhead, for example, such as

1 the PATH analytic method developed by researchers at  
2 UMASS-Lowell, but they are very time-consuming and not very  
3 accessible to the average contractor. For some jobs where  
4 workers are essentially performing the same task all day,  
5 and there are such jobs in construction, it will be easier,  
6 but for other jobs, it will be difficult.

7 We believe there needs to be a more generic  
8 approach to risk factor identification, where the employers,  
9 perhaps along with manufacturers and trade associations,  
10 develop generic job analyses for common construction tasks,  
11 like an ergonomic safety data sheet, which can then be  
12 applied on the job site in the same way a material safety  
13 data sheet is developed which lists potential hazards for  
14 chemicals, and then must be applied to the specific  
15 situation which each workplace has depending on how the  
16 material is used.

17 For example, an analysis can be developed for  
18 hanging drywall on ceilings and recommendations made, like  
19 for how long it should be done before a break or before  
20 rotating jobs or tasks, or for equipment like drywall lifts  
21 to be used. Those recommendations would then be implemented  
22 on all sites where the contractor is doing this work.

23 The proposal discusses "caution zone jobs," but in  
24 the definition of "caution zone jobs," it refers to them as  
25 "jobs or tasks"; so it's unclear from the proposal whether

1       it allows for such an approach. If not, then such an  
2       approach should be incorporated into the final rule.

3               I also finally want to mention that the proposal  
4       does not really deal with whole-body vibration exposures,  
5       which can be an important problem in construction, for  
6       example, for people operating construction equipment. And  
7       that needs to be looked at and considered how that could be  
8       covered.

9               Thank you again for the opportunity to testify on  
10       this proposal. I'd be happy to answer any questions that  
11       you have now. I did bring props to show you, but I don't  
12       really have time to do that. And I will give copies of my  
13       testimony and the attachments to you or to the people in  
14       back, whichever you prefer.

15               MR. WOOD: I just have one very brief question  
16       that I think you've largely answered. You referenced a  
17       number of studies throughout your testimony. Are all those  
18       studies clearly identified in your written materials?

19               MR. SCHNEIDER: I'm going to be submitting  
20       most of them. I have a number -- Most of them are  
21       referenced in the papers that I'm submitting, and I can  
22       provide copies of any of them that you would like. I mean,  
23       for example, I have some of the Dutch studies with me, but I  
24       don't know if you want those.

25               MR. WOOD: As long as you have clear

1 references.

2 MR. WALTERS: Well, thank you. I'll just  
3 remind you that you should give your evidence to Tracy  
4 Spencer, who's standing back there in the back of the room.

5 Daniel?

6 MR. KOEBEL: Thank you. My name is Dan  
7 Koebel, and - excuse me - I wear this collar because I have  
8 a lot of pain in my neck, and I didn't realize how difficult  
9 it was just to hold one's head up after a while. It's very  
10 difficult, even sitting in a stationary position, due to my  
11 condition.

12 I'm 52 years old. I've been an airline  
13 reservations agent for 20 years. Prior to this, I was a  
14 travel agent for two and a half years, and an airline ticket  
15 agent for three and a half years. When I began working as a  
16 reservations agent ergonomics wasn't a concern. We were  
17 sitting in very uncomfortable chairs, shoulder to shoulder,  
18 and there was a good chance that the person next to you was  
19 smoking.

20 There have been gradual improvements since then,  
21 but even with better conditions, workers are often not aware  
22 of or concerned with these potential problems. I have  
23 worked 8-to-10-hour days for this 20 years, 10-hour days for  
24 about the last 8 years.

25 A little over a year ago, I began experiencing a

1       tingling sensation in my right hand and forefinger and  
2       thumb. This was accompanied by an occasional muscle spasm  
3       in my forearm. I told my personal physician about this  
4       during an annual physical last January. He recommended that  
5       I have hand therapy.

6               For the next two months, I attended hand therapy  
7       sessions twice a week. During these sessions, I would often  
8       leave feeling worse, and the occasional pain occurred more  
9       often and seemed to be spreading to my upper arm and  
10      shoulder area.

11             About this time, I filed a worker's claim -- a  
12      claim for worker's comp, since this appeared to be the same  
13      problem that many of my fellow workers had suffered from.  
14      My doctor was advising me not to do this because of the  
15      hassle and the length of time it would take to settle the  
16      whole thing, and he just felt I should just pursue it  
17      through my own private insurance. The claim was approved on  
18      a provisional basis, subject to final determination.

19             Since the hand therapy was not helping, I was sent  
20      to a neurologist for a nerve conduction study. I was  
21      diagnosed with mild carpal tunnel syndrome in both hands.  
22      It was like on the upper limits of normal. He recommended  
23      that I see a physical therapist M.D. for further evaluation.  
24      The doctor repeated many of the same painful tests and  
25      recommended that I see a hand surgeon.

1                   During this time, I continued to work as a  
2                   reservations agent. The pain was becoming intolerable at  
3                   times. It was now August. The hand surgeon conducted some  
4                   other tests. He was not convinced that my hands and wrists  
5                   were the main source of the problem. He prescribed a double  
6                   dosage of anti-inflammatory drugs and ordered an X-ray of my  
7                   neck area.

8                   Since the pain was almost constant now, I was  
9                   given a note from the doctor to remain home from work. I  
10                  have been off work since that time, which was the first part  
11                  of September. The X-ray indicates without a doubt that I  
12                  have a herniated disc in my neck with bone spurs, and he was  
13                  mentioning C3, 4, 5, and 6.

14                 I was sent to a neurosurgeon, and he said the  
15                 X-rays looked as though I was over 70 years old. He  
16                 recommended surgery as soon as possible, since this was a  
17                 dangerous condition, which would result in paralysis if I  
18                 were in a simple whiplash accident. He ordered an MRI to  
19                 confirm his suspicion. The MRI proved that the herniated  
20                 discs were the problem.

21                 About this time, I began to experience actual  
22                 pains in the neck and found it difficult to hold my head  
23                 upright for extended periods of time without pain shooting  
24                 from the neck area down the right arm and into the hands.  
25                 My left arms also began to have some of these symptoms.



1           The administrator for my workman's comp insurance  
2           ordered another opinion. I had to wait nearly a month for  
3           this second opinion. Then I waited for almost a month for  
4           the report. These doctors confirmed the diagnosis. One of  
5           the doctors said my neck X-rays looked ratty.

6           On one page, their report said that my injury was  
7           a result of my age. On the next page, it said the injury  
8           was probably preceded by -- preceded my employment. I was  
9           32 when I was employed by my company. I do not think I  
10          would have been considered old by any standard.

11          Because of their Statements of Cause, my claim is  
12          in dispute. During this time, I remained at home with  
13          almost constant pain. I could not do anything of a  
14          repetitive nature without severe pain. I can't hardly even  
15          sign my name without it causing problems.

16          I wanted surgery, but I was told that I had to  
17          wait for the final approval of worker's comp. This, I found  
18          out, could take until February and even later if an appeal  
19          is filed. I called my private insurance company; they said  
20          surgery could not be covered until I was denied by worker's  
21          comp.

22          While I was waiting, I went to see a different  
23          neurosurgeon that could perform surgery in a hospital much  
24          closer to my home. He agreed with the previous diagnosis,  
25          and his office seemed to be much more aggressive about

1 getting my surgery paid for by my private insurance.  
2 Worker's comp would eventually pay for it, if approved, I  
3 was told.

4 I contacted someone in my company's human resource  
5 department; he said he would help to get the approval of the  
6 insurance company. I now have surgery scheduled for  
7 Friday - this coming Friday - January 7th. Surgery will  
8 involve bone fusion and possible metal plate. Recovery make  
9 take six to eight weeks. Some movement of my neck may be  
10 permanently impaired. I was misdiagnosed initially, since  
11 carpal tunnel seems to be the most common problem associated  
12 with my work.

13 After finding out about the herniated disc in my  
14 neck, I began to study the problem -- after finding out  
15 about them, I should say. I came across several studies  
16 that said the neck area is the first place to look if pain  
17 in the hand the arm are present.

18 Initially, I found out that my condition can be  
19 caused by an accident, old age, or poor posture. There have  
20 been studies for years that have proved the relationship  
21 between tension neck syndrome and herniated discs. The  
22 muscles in one's neck can only support the head for so long  
23 without causing a strain. This strain eventually leads to  
24 the development of lactic acid, eventually the deterioration  
25 of muscles, and finally the breakdown of the cervical discs.

1           I found this information in several sources such  
2           as New York University, UCLA, University of Nebraska, the  
3           Mayo Clinic, and OSHA. It frustrated me to have the  
4           information about this and still have a very difficult time  
5           educating my doctors.

6           For the proposed ergonomics rule, I am in a  
7           caution zone job. For years I've worked at a computer eight  
8           to ten hours a day; I take calls constantly, one after  
9           another; I'm subject to monitoring constantly while doing  
10          this. I found out, also, that the problem can be worse  
11          among those that wear bifocals, which I do. This causes you  
12          to be focused in a strained position and looking in a  
13          certain place.

14          And it also can take longer to develop if you are  
15          more physically fit. I was always concerned about being  
16          physically fit; I prided myself in exercising, and mostly to  
17          prevent heart problems and weight problems, which are  
18          sometimes associated with my job, just sitting in one  
19          position for long periods of time.

20          It was very frustrating to me to find myself in a  
21          situation where I had to educate my own doctors, especially  
22          specialists. They would say, well, it's due to breathing;  
23          this is a quote from a neurosurgeon; things like that. You  
24          know, it was just kind of an off-the-cuff sort of thing.

25          Unless it is a specific injury, it is very

1       difficult to get it recognized as a work-related disease.  
2       The most frustrating thing to me is the length of time it  
3       takes to get anything done. It took weeks or months to  
4       obtain appointments with specialists and get their reports.  
5       If surgery had been performed in October, just after I saw  
6       the neurosurgeon, I probably would be through with the  
7       post-surgery therapy by now.

8               Instead, I have been in pain for an addition three  
9       months with the continued danger of more permanent serious  
10      injury. I have developed additional pains in my legs during  
11      this time and have been given medication for depression from  
12      my doctor, which he said could also help with my problem  
13      with high blood pressure, which has been increasing during  
14      this whole time, and they said probably due to pain.

15             Just yesterday, I received a notice from Labor and  
16      Industries denying my claim. They said that since the claim  
17      was for a right wrist problem, I was denied since the  
18      problem originated in the neck area. Now I must either  
19      appeal, based on the fact that it is the same problem but  
20      only originates elsewhere, or I must file a new claim based  
21      on the neck injury.

22             This whole process has been like a roller coaster.  
23      I mentioned this to my doctor. It's like a roller coaster;  
24      once you're on it, you just can't get off of it; you're up  
25      and down, and it's just --



1 minutes, we will be about an hour and a half into the next  
2 hearing, not quite that long, in the next hearing when we  
3 finish. But I'm assuming that some of you won't need that  
4 long.

5 I would remind you again that if you have your  
6 comments in writing, they can be entered into the record  
7 without you repeating them. You can give them to us in  
8 writing, and they will have the same standing in the record.

9 And we will try to continue to accommodate those  
10 of you who have particular childcare issues or are dealing  
11 with problems that require you to get on. Unfortunately,  
12 there are a number of you with those sorts of issues, so the  
13 high-priority ones are even ending up in a certain line.

14 The next panel is Jan Bussert, Roger Yockey, and  
15 Mark Hadfield. And following them will be Knut Ringen and  
16 Keith Brossard and Ingrid Rasmussen.

17 Jan?

18 MS. BUSSERT: Good afternoon. My name is Jan  
19 Bussert, B-u-s-s-e-r-t. I am the president of the  
20 Washington State Nurses Association, the professional  
21 organization representing over 11,000 registered nurses  
22 throughout Washington state.

23 I am here to testify in support of the ergonomics  
24 rule proposed by the Department of Labor and Industries. In  
25 the interest of time, I'll abbreviate my comments and submit

1 details in a written format at a later date.

2 I've been a registered nurse for over 30 years. I  
3 have been very lucky. In lifting hundreds of patients  
4 throughout my career, I have not suffered a debilitating  
5 back injury. Unfortunately, I do know many nurses who have  
6 sustained work-related musculoskeletal disorders such as  
7 back injuries.

8 Back injuries are mainly caused by lifting  
9 unreasonable loads. The National Institute of Occupational  
10 Health says that a 51-pound stable object with handles is  
11 the maximum amount anyone should routinely lift. Our  
12 patients are unpredictable human beings, not stable objects  
13 with handles. Lifting the patient under the armpits places  
14 exceptional force on the lifter's spine from 1.5 to 2 times  
15 the maximum acceptable load for human lifting.

16 While some employers are taking steps to prevent  
17 workplace injuries, this rule is needed to ensure that all  
18 employers comply and address work-related hazards. Studies  
19 have shown the effectiveness of ergonomic programs in  
20 healthcare settings. This proposal rule will have a great  
21 impact for all workers because it asks the employers to  
22 identify hazards and then take steps to reduce them. This  
23 will prevent worker injuries, as opposed to taking steps  
24 after an injury has already occurred.

25 Employers will argue that it is unnecessary and

1       costly to implement this program. I would like to argue  
2       that it is more costly for the workers, the states, and the  
3       citizens of Washington if we do not implement this rule.  
4       Nurses who care for the most ill and vulnerable among us  
5       deserve the protection of an ergonomic standard.

6               In fact, the rule gives a very generous time line  
7       for which employers must comply. The most stringent  
8       compliance date is 36 months. For some employers they don't  
9       take effect until 72 months after the adoption date. We  
10      believe these implementation days are in fact too generous.  
11      We recommend that the time line be tightened.

12             In conclusion, I would like to applaud the  
13      Department of Labor and Industries for proposing this rule.  
14      Workers in Washington are entitled to a safe working  
15      environment.

16             Thank you for the opportunity to speak with you  
17      today.

18             MR. WOOD: Thank you.

19             Roger?

20             MR. YOCKEY: Thank you. I'm Roger Yockey,  
21      Political Action and Education Director of United Food and  
22      Commercial Workers Union Local 1105.

23             The United Food and Commercial Workers Union has  
24      1.5 million American workers. We represent approximately  
25      54,000 workers in this state. We commend the Department of



1 Labor and Industries for their proposed rule.

2 The UFCW represents members working in retail  
3 food, meat, poultry, food processing, garment, and textile,  
4 and healthcare industries. Seventy-three percent of those  
5 workers in Washington state are in retail food as  
6 meatcutters, deli, produce, bakery clerks, and cashiers.

7 These workers are among the highest risk of  
8 developing a musculoskeletal disorder. And according to  
9 research findings of the National Institute for Occupational  
10 Safety and Health, 30 percent of cashiers examined in a  
11 survey suffered an MSD.

12 I'm going to speak primarily about that of which I  
13 know the most, the experiences of members of UFCW Local  
14 1105. Local 1105 is a labor union representing  
15 approximately 13,000 working men and women, primarily in the  
16 grocery industry in King and Snohomish Counties.

17 An ergonomics rule is critical for the members of  
18 Local 1105 now and in the future. Grocery stores are No. 1  
19 by claims and No. 7 by prevention index, according to the  
20 Department of Labor and Industries, WISHA Service Division,  
21 industry ranks for nontraumatic MSDs. The Stand Fund and  
22 self-insured compensable claims from the years 1995 to 1997  
23 was a three-digit SIC.

24 There are those in the grocery industry  
25 management who would deny these rankings. However, they

1 cannot deny that work-related musculoskeletal disorders,  
2 MSDs, are a serious problem in their industry. The toll is  
3 heavy. The cost in worker compensation claim costs, days  
4 lost, lost productivity, and lower employee morale certainly  
5 should concern the employer.

6 But what I am most concerned about is the pain,  
7 the suffering, the income loss, the job loss, the careers  
8 ended because of work-related injuries and illnesses. I  
9 won't even discuss at length the gauntlet that injured  
10 workers have to run - actually stagger would be a better  
11 expression - to the worker's compensation system of  
12 managers, claim managers, doctors, so-called independent  
13 medical exams, claim managers, attorneys, denials, appeals.  
14 We can do something; we must do something; and this proposed  
15 rule is a step in the right direction.

16 I serve on the WISHA Advisory Committee, a  
17 labor/business committee established by the legislature. I  
18 also serve on the Washington State Labor Council's WISHA and  
19 Industrial Insurance Monitoring Committee. I know of  
20 efforts by unions, companies, and Department of Labor and  
21 Industries to put into place ergonomics design changes and  
22 programs to prevent injury and illness. I applaud these  
23 efforts.

24 I know the efforts of the United Food and  
25 Commercial Workers Union and some employers such as an

1       ergonomic analysis of check stand design for Safeway in  
2       British Columbia done with the United Food and Commercial  
3       Workers Union Local 1518 with the cooperation and support of  
4       the Worker's Compensation Board of British Columbia done in  
5       1998 with some very good recommendation for reduction of  
6       work-related injuries through check stand design.

7               And for months last year, I was able to serve on a  
8       group of labor/business occupational safety and health  
9       experts and the Department of Labor and Industries on an  
10      advisory committee to discuss the proposed rule. I believe  
11      that many of the group's suggestions are in the proposed  
12      rule we are discussing today.

13             I applaud all those efforts. But involuntary  
14      innovation rather than regulation has not gotten the job  
15      done. There is an epidemic. And what are we going to do to  
16      control it?

17             Let me add one thing in hearing testimony that I  
18      would suggest in a proposed rule. We live in an age of  
19      mergers, acquisitions, consolidations. I find numerous  
20      times where there is an individual store manager who will be  
21      willing to do something about eliminating hazards in his or  
22      her store, but find himself or herself blocked by the  
23      corporate, whether that corporation be located in Portland,  
24      Oregon or Cincinnati, Ohio.

25             We must take into consideration any proposed rules

1       that efforts may be made within a particular location, but  
2       it maybe be thwarted by the efforts of corporate decision  
3       makers elsewhere.

4               Lifting, repetitive motion, awkward positions,  
5       confined space, unfortunately, are part of the grocery store  
6       workplace environment for employees. Members of our union,  
7       USCW 1105 and other retail employees working in grocery  
8       stores are in the danger zone. They are in the caution  
9       zone.

10              What the rule is only asking is that employers  
11       analyze caution zone jobs, provide employee education,  
12       employee participation, and hazard reduction. British  
13       Columbia has an ergonomics requirement as part of their  
14       occupational health and safety regulation that was effective  
15       on April 15th, 1998.

16              Those requirements call for risk identification,  
17       risk assessment, risk factors, risk control, education and  
18       training, evaluation, and consultation; many of the things  
19       which are included in the proposed rule for Washington  
20       state. We have an opportunity to work together, Labor,  
21       business, government, in the best interests of all.

22              Dr. Martin Luther King, Jr. said we can either  
23       learn to live together as brothers and sisters, or we can  
24       perish separately as fools. Let's not be fools; let's don't  
25       be foolish.

1                   During the public hearings throughout the state  
2                   there will be much said. There will be much written. You  
3                   will hear from individual businesses, business groups, those  
4                   who will say why a rule is needed and why a rule is not  
5                   needed. You will hear from trade association's lobbyists  
6                   who predict gloom and doom if the proposed rule is adopted.  
7                   And you will hear from workers and representatives of  
8                   workers.

9                   Of course, I want you to hear, read, and consider  
10                  what I say and write. But it is the workers, injured, ill,  
11                  and at-risk who must be heard most carefully. Some grocery  
12                  store employees will speak at these hearings. Some will not  
13                  be able to attend.

14                  But I want you to think of the grocery checker who  
15                  had carpal tunnel surgery on both wrists. I want you to  
16                  think of the grocery store worker in her early forties who  
17                  has given than 20 years of service to her employer, and the  
18                  reward for faithful service of lifting and cold is pain,  
19                  suffering, and fighting for some relief through the multiple  
20                  roadblocks of her employer.

21                  Yes, I can tell you their stories, but they live  
22                  their stories every day. Do something for them; pass this  
23                  ergonomics rule. They may not be at these hearings, but  
24                  they are in the stores and too frequently at doctors'  
25                  offices, physical therapy.

1                   Finally, all they are saying is listen; do  
2                   something; have a rule that offers hope, relief, and an end  
3                   to the fear, the pain, the suffering which is so common in  
4                   the workplace. Because we can do something. We must do  
5                   something.

6                   The United Food and Commercial Workers Union has  
7                   been and is willing to continue to work with business and  
8                   government to prevent work-related injuries and illnesses.  
9                   But we challenge the business community to step forward and  
10                  support this ergonomics rule, which is a step forward to  
11                  ending the pain and suffering of workers in this state. If  
12                  not now, when?

13                  If one grocery store worker doesn't have to wear  
14                  splints at night so they can work in the day, this rule is  
15                  worth it. If one grocery store worker doesn't have to have  
16                  their wrist operated on, this rule is worth it. If one  
17                  grocery store worker doesn't have to be off the job because  
18                  of their back, arm, neck has been hurt because of a  
19                  poorly-designed workplace, then this rule is worth it.  
20                  And that's what it's really all about, having a rule in  
21                  place for millions of working men and women so that they can  
22                  go to work to work, not to be injured.

23                  And one of the workers that would like to be  
24                  testifying, but she's nervous, is with me today, Laura  
25                  Murphy, a checker who three years ago, in July of 1997, low

1 back injury; she's been intimidated; physical therapy has  
2 been denied. She hasn't been on a roller coaster going up  
3 and down; like many injured workers, she's been on a deep,  
4 slippery slope, and it's all downhill.

5 It's also about underreporting. It is about  
6 managers not wanting to lose annual bonuses. It is,  
7 unfortunately, about peer pressure. We don't want to urge  
8 that workers not report injuries. And it's about  
9 representatives of self-insured employers who want to deny  
10 claims and deny care.

11 So, I hope that you remember anything that I said,  
12 this isn't about a rule; this isn't about a piece of paper;  
13 this is about millions of injured workers and potential  
14 injured workers in this state.

15 Thank you.

16 MR. WOOD: Thank you, Roger. I hope you will  
17 encourage Laura Murphy to submit comments in writing, if she  
18 doesn't want to go up.

19 Mark?

20 MR. HADFIELD: My name is Mark Hadfield.  
21 That's H-a-d- like David -f-i-e-l-d. I've worked in the  
22 construction industry for 30 years, 20 of those years as a  
23 lather and a drywaller. I now represent 1,800 organized  
24 drywallers as a business representative for the Pacific  
25 Northwest Regional Council of Carpenters.

1                   Today I speak for drywall hangers, organized or  
2                   not, as every day I see craftsmen on the job who suffer from  
3                   musculoskeletal disorders. They work in pain because  
4                   drywall hanging is what they do for a living, and it's hard  
5                   work. I won't ever forget how hard it is on a body, because  
6                   I have the scars from bilateral carpal tunnel release and  
7                   the scar from the cervical fusion to remind me.

8                   The members that I represent participated in a  
9                   study conducted by the Duke University Medical Center. They  
10                  found that over a seven-year period there were 1,720  
11                  worker's compensation claims for upper extremity and  
12                  musculoskeletal disorders that were approved by the state of  
13                  Washington. Compensation for medical care, paid lost time,  
14                  and disability for those claims was nearly \$14 million, for  
15                  an average cost of 21 cents per hour's work.

16                  Fifty percent of our members have filed for an  
17                  MSD. Something has to be done. When I read the  
18                  explanations of the physical risk factor regarding this  
19                  proposed ergonomics rule: heavy, frequent or awkward  
20                  lifting, awkward postures, highly repetitive motion, high  
21                  hand force, repeated impact, and moderate to high vibration,  
22                  it sounds like a job description of a drywall hanger to me.

23                  I commend the advisory committees for their  
24                  proposals, and I thank the department for taking this bold  
25                  step. It could lead to new thinking regarding the size or



1 weight of material and the methods of installation. That  
2 would in turn lead to a longer, healthier, more productive  
3 career for the construction worker.

4 And I thank you for the opportunity to speak in  
5 favor of the proposed ergonomics rules.

6 MR. WOOD: Thank you.

7 I'd like to ask Knut Ringen, Keith Brossard, and  
8 Ingrid Rasmussen to come forward.

9 MR. RINGEN: Good afternoon. My name is Knut  
10 Ringen. I'm a private consultant in Seattle, and I'm  
11 presenting here on behalf of the Washington State Building  
12 and Construction Trades Council and the more than 60,000  
13 members that's represented by its affiliates. These workers  
14 need this standard, and the council strongly supports the  
15 proposed rule.

16 I'm just going to summarize what I have here. I  
17 have a written statement that I've given, so I'll take a  
18 couple of minutes and raise a few issues.

19 I'm a public health doctor, and I've spent all my  
20 career in national leadership positions in research and  
21 development on occupational safety and health, particularly  
22 for construction workers; and I'll limit my comments to  
23 construction.

24 From 1994 to '98 I was chairman of the Federal  
25 Government's National Advisory Committee on Construction

1 Safety and Health. I spent much of that time moderating the  
2 debate, which became increasingly hostile over the  
3 ergonomics issue; I'm glad I'm not doing that anymore.

4 I want to make one point in the beginning that  
5 keeps getting lost in the debate on this issue. This rule  
6 does not require us as employers or employees to do anything  
7 that we should not already be doing. Let me repeat that:  
8 It doesn't require us to do anything that we should not  
9 already be doing. That may seem strange; but that's the  
10 reality.

11 What it does do is to remind us that everyday  
12 activities of identifying hazards on the job and in  
13 addressing them, that we should pay closer attention to  
14 ergonomic risks and hazards, and that we should use the  
15 guidelines that is provided by the standards in doing so.  
16 That's the two things that this standard does. Look at this  
17 chart. It's not rocket science.

18 We support this rule for four reasons: First, the  
19 rule is needed, because it's obvious that the market itself  
20 is not regulating practices in this area.

21 Secondly, the rule is technically and  
22 scientifically sound. It has a huge basis for it, as you've  
23 heard here already. And, besides, there's an awful lot of  
24 commonsense in it.

25 Third, the rule is technologically and

1       economically feasible and will over time result in improved  
2       productivity and will incur savings to both employers and  
3       employees.

4               And finally, fourth, the implementation plan is  
5       very practical.

6               I'm just going to highlight a couple of issues  
7       here that I think is important to consider. The first is  
8       that we impose rules when the market doesn't do its job.  
9       It's mainly why we have government involvement in the  
10      economic sector in our country and in our economy.

11              There are two ways that I could illustrate why we  
12      need the rule. It's likely that most employers are going to  
13      testify that this proposed rule imposes an unreasonable  
14      burden and cost to them.

15              Yet, if this hearing were about what the major  
16      problems are in worker's compensation, virtually all of  
17      those employers would testify here today that the big  
18      problem they face are costs associated with musculoskeletal  
19      disorders, particularly back injuries. This is one of the  
20      most perplexing things that I've faced in the 20 years that  
21      I've worked in this field.

22              On the one hand, when we talk about worker's  
23      compensation costs, we all acknowledge that musculoskeletal  
24      problems are huge. And on the other hand, when we talk  
25      about ways to fix these problems, the employers seem to run

1 away and want to stick their heads in the sand and hide from  
2 it. In other words, there's a disconnect which defies the  
3 laws of economics here, and that's why we need the  
4 regulation.

5 Now, I've spent most of my life doing medical  
6 studies of workers, directing large studies, including four  
7 large screening studies presently of older workers across  
8 the country. And most of these workers have musculoskeletal  
9 disorders that arise from that work over a lifetime in our  
10 industry. Yet most of them have never filed a claim for  
11 worker's compensation, have never raised an issue.

12 These workers either work through their injuries,  
13 or they take time off with no pay to heal up, or they leave  
14 the industry because they're not willing to continue to take  
15 the risks. They and their families incur huge costs that  
16 are not included in this regulation, and these costs are  
17 nonetheless incurred and shifted onto these workers and  
18 these families.

19 An alternative to this kind of standard might be  
20 that we should ask all workers to file worker's compensation  
21 claims, to flood the system with claims on this issue, but I  
22 think that's neither desirable nor practical. I doubt if  
23 many of the employers who are going to testify against this  
24 standard would view that as a realistic alternative.

25 For the market to work, all costs have to be

1 included, including those that are externalized at the  
2 present time, and that's not going to happen unless the  
3 system is flooded. I would contend that it's better to  
4 focus on how to prevent these issues to begin with.

5           You've heard enough about how this rule is built  
6 on a sound, scientific basis, and I think also enough about  
7 why it's technologically feasible. It's nothing complicated  
8 in what we're supposed to do. We're supposed to identify  
9 hazards. And then the employers and the employees have a  
10 range of approaches that they can use to begin to address  
11 these hazards.

12           The economic feasibility of the study is obvious.  
13 In our industry, employers in construction right now in this  
14 state incur over one dollar per hour in worker's comp costs  
15 for these types of injuries. Over one dollar per worker per  
16 hour. The workers themselves absorb at least that much in  
17 additional costs, so over two dollars per hour is probably  
18 spent on treating, on paying for these injuries.  
19 A lot of that could be used on prevention, and a lot of that  
20 could result in substantial savings to both parties.

21           The implementation plan for this standard is truly  
22 unique, and I've never seen it in all the years that I've  
23 been involved in federal and state OSHA issues. I've never  
24 seen a standard that allows employers and employees so much  
25 involvement in implementation, including giving guidance to

1       the agency about how we begin to enforce this standard  
2       eventually, and also the amount of time that it gives  
3       employers and employees to get ready to comply with this  
4       standard. I don't know what more really employers or  
5       workers could ask of the agency.

6               It's common sense that none of us could last long  
7       if we were asked to do the same task over and over again  
8       every minute of the day. Try using a screwdriver for any  
9       time, period of time. If we did for about 10 minutes, we  
10      start getting pains in our arms.

11             It's unreasonable to ask anybody to carry loads of  
12      more than 50 pounds, yet today a typical wallboard worker is  
13      expected to lift boards that weigh an average of 105.6  
14      pounds all the time. We expect our workers to be able to do  
15      that; that defies common sense.

16             Try working steadily finishing a ceiling with your  
17      neck craned back and your hands above your shoulders, or on  
18      your knees plastering or laying tiles along the bottom of a  
19      wall or the finishing of a floor. We can do this for short  
20      periods of time, and we all do that in our homes, but try  
21      doing it day after day, hour after hour. That's asking too  
22      much of people.

23             And what this standard asks us to do is to think  
24      about this in ways that we can break up some of that load  
25      that we put on workers and make it better for workers so

1       that they can stay in their chosen careers for a lifetime.

2               Musculoskeletal injuries are not going to go away  
3       by themselves, and we might as well start facing up to them;  
4       and that's what this standard does. It starts facing up to  
5       them.

6               The standard is deficient and inadequate in many  
7       ways. It doesn't go nearly far enough. I could list lots  
8       of areas where it's weak. For instance, it allows way too  
9       much use of knee kickers; it allows way too much of pounding  
10      with the hands; and as Scott Schneider said, it allows way  
11      too much whole-body vibration.

12              A number of other issues could be raised where  
13      the standard is not nearly up to where it should be. But  
14      it's a start. It's a beginning. Let the employers and the  
15      employees together figure out how to deal with these issues.  
16      That's what the standard tells us: Let us do it ourselves.  
17      The government will make sure that we focus on it; that's  
18      all it will do. And I don't think that's unreasonable to  
19      ask.

20              Thank you.

21              MR. WOOD: Thank you.

22              Keith?

23              MR. BROSSARD: Thank you. Good afternoon.

24      My name is Keith Brossard. I'm an occupational safety and  
25      health specialist for Communication Workers of America,

1 Local 7800 here in Seattle. Our local represents  
2 communication workers for US West, Lucent Technologies, and  
3 other companies in the state.

4 I would like to speak on behalf of my brothers and  
5 sisters who have had their entire lives affected by  
6 work-related musculoskeletal disorders. When I say that we  
7 strongly support the new Washington state ergonomics rule.  
8 These workers have been crippled by the work they do and  
9 have been cast aside by the companies they represent.

10 A couple of the cases that we've worked with out  
11 of my local, one of which was in 1992. We identified  
12 several of our members who were working in a centralized  
13 mail remittance processing center that were suffering from  
14 various types of muscle and skeletal disorders. They had  
15 carpal tunnel syndrome, tendinitis, epicondylitis,  
16 ganglionic cysts, and various types of pain and numbness in  
17 their upper extremities, necks, and backs. A lot of the  
18 members were also suffering from sinus infections,  
19 aggravated allergies, and sore throats.

20 This was a center that was designed to process  
21 telephone bills and payments that had been mailed in to one  
22 of the companies we represented. The payments were  
23 recorded; the bills were processed; and the checks were  
24 returned to the banks after processing.

25 The process the company was using was quite



1 labor-intensive. It involved the use of old and  
2 uncomfortable equipment, requiring a great deal of hand  
3 sorting and repetitive motion in the hands and wrists, while  
4 sitting in uncomfortable positions for long periods of time.

5 The employees were working long shifts during the  
6 times that the incoming mail was the heaviest. Hand-sorting  
7 was heaviest during these times. It was also during these  
8 times that the employees would complain of hand and wrist  
9 pain, as well as other types of pain.

10 Computers monitored the entire process. When the  
11 managers got their printout, they posted the results and  
12 pushed for more work in less time, especially when the mail  
13 was heavy. Of course, as the workers' pain increased, the  
14 speed of processing the mail decreased.

15 If an employee can no longer use the high  
16 intensity equipment, they were moved to a different machine  
17 or processed mail that required hand sorting due to  
18 something unusual contained inside the envelope, like a  
19 staple or a paper clip. In many cases, the employee was  
20 just disciplined for not keeping up before they were allowed  
21 to move.

22 It was believed that a layer of paper dust caused  
23 by the equipment was the cause of the sinus infections and  
24 sore throats. The dust was so heavy that it reduced the  
25 amount of light over the work stations, due to buildup on

1 the defusers attached to the fluorescent light fixtures.  
2 In spite of the deplorable working conditions, the workers  
3 were expected to volunteer for overtime to make up for the  
4 people who were being injured.

5 Benefit cases were being questioned regarding  
6 activities outside of work, such as knitting and craft work.  
7 Other employees were disciplined and made examples of due to  
8 chronic complaining or multiple injuries. Some were  
9 actually dismissed, due to attendance problems or inability  
10 to meet measurement objectives.

11 The situation was very frustrating for union  
12 stewards. They, too, were expected to keep up. The  
13 managers had installed their favorite people in key  
14 positions overseeing the work force and reporting back on  
15 informants or whistleblowers.

16 The Local 7800 officers and stewards met many time  
17 with management over a two- or three-year period to discuss  
18 their concerns regarding member health problems and desired  
19 to work cooperatively with the company to improve working  
20 conditions. However, managers refused to work with local  
21 leaders, stating employee health complaints were blown out  
22 of proportion.

23 In addition, managers stated that the union's  
24 contention that the employees' repetitive motion health  
25 complaints were due to the presence of ergonomic wrist

1 factors and that employee respiratory complaints were due to  
2 paper dust was just an unfounded statement.

3 Finally, in October of 1992, two employees  
4 contacted Washington's Industrial Safety and Health  
5 Administration and filed a formal complaint. An inspection  
6 of the facility was conducted, and the company was cited for  
7 several violations and fined \$10,000. As a result of that,  
8 a task force was set up, and the task force members received  
9 training by an outside ergonomics provider.

10 Safety meetings were held, and the company also  
11 agreed to implement recommendations for a joint ergonomics  
12 task force committee. The minutes of all the meetings were  
13 posted, and WISHA was invited to attend at least three  
14 meetings per year to ensure compliance with the agreement.

15 Over the next three years, a total and complete  
16 redesign of the facility took place. The center was moved  
17 to one of the company's most modern buildings. The  
18 mail-sorting process was redesigned, and all sorts of  
19 changes were made, such as safety meetings, separate machine  
20 room, and plenty of training for the employees.

21 When the process began in 1992, nearly every  
22 employee interviewed had complained of some sort of pain  
23 experienced while performing his or her work functions. A  
24 follow-up interview done in December of 1996 could not find  
25 a single complaint of pain, discomfort, or cumulative trauma

1 disorder of any kind. So this step does work; but it takes  
2 intervention.

3 In 1997, I was asked to address a problem with  
4 some office workers in downtown Seattle. They sat at  
5 computer terminals all day, taking calls, and they were  
6 experiencing a lot of musculoskeletal disorders. I was  
7 shocked to find that out of 105 employees, 17 were presently  
8 out on work-related injuries.

9 There was what I referred to as a cycle of abuse  
10 going on. While people were out on disability, they were  
11 not being replaced, so those left behind were expected to  
12 work faster and harder and volunteer for overtime. By the  
13 time the injured employees returned, those left behind were  
14 ready to go out with injuries of their own.

15 Clearly, some sort of intervention was needed.  
16 After speaking with the management team, we set up training  
17 sessions, safety meetings, and one-on-one work station  
18 assessments. We also got the managers to agree to purchase  
19 some badly-needed equipment, like wrist rests, foot rests,  
20 glare screens, and headsets.

21 We also included the managers in the training  
22 sessions. When we began, the illness and injury rate was  
23 16.9 percent; three months later, it had dropped to 6.9  
24 percent. At six months, the illness and injury rate was at  
25 0.0, and it has stayed at 0.0 for over two years.

1                   Consider the fact that those people are no longer  
2           being injured by the work they do. Consider the substantial  
3           dollar savings by the company because of no longer having to  
4           pay lost-time wages. Consider the increased productivity by  
5           people who are no longer in pain and are finally getting a  
6           good night's sleep. Consider the increased morale of  
7           employees.

8                   Consider that the ergonomics awareness training  
9           that these people have received is something they will take  
10          with them to their next jobs and also to educate their  
11          children on the risk factors of computer use. Consider it,  
12          also, that the company fought tooth and nail in the first  
13          case until the state came in and levied a fine. Then the  
14          company starting looking at the cases much more objectively.  
15          Please also consider that these injuries are preventable.

16                  I'd also like to see this ergonomics rule pay more  
17          attention to the computer users. There's a lot of attention  
18          being paid to repetitive motion injuries for construction  
19          work, and communication workers do use a lot of hand tools.  
20          But the numbers of injuries to people who do computer work  
21          has definitely reached epidemic proportions. Please don't  
22          allow them to slip through the cracks.

23                  I'd like to thank you for the opportunity to speak  
24          on behalf of this much-needed rule, and I'd like to let you  
25          know that Communication Workers of America strongly supports

1 the adoption of the ergonomics rule for the state of  
2 Washington.

3 Thank you.

4 MR. WOOD: Thank you.

5 Ingrid?

6 MS. RASMUSSEN: I'm Ingrid Rasmussen, and I am  
7 also with the Communication Workers of America Local 7800.  
8 I am representing injured workers. Since 1997, I have  
9 missed -- Can you hear me?

10 MR. WOOD: Can you pull the mike a closer to  
11 you?

12 MS. RASMUSSEN: Okay. Since 1997, I've missed  
13 16 weeks plus of work; I've had surgery on both of my hands;  
14 and this was due to on-the-job injuries, several of them.  
15 I've had carpal tunnel, tendinitis, and cubital tunnel in my  
16 right arm. These were computer-related injuries that I  
17 first started having trouble with in 1995.

18 The carpal tunnel, which was the majority of the  
19 problems that I've had, originally reared its ugly head in  
20 January of 1996. That injury occurred after moving to a new  
21 job which we were staffing at the company I worked for,  
22 megacenters, where they moved hundreds of workers to do jobs  
23 that used to be done in 14 states to three.

24 At that time, we didn't have desks, so they took  
25 old equipment from 1976 and 1977, and sat us at these desks

1 to do these jobs. My injuries occurred after working in  
2 these jobs. My doctor requested an ergonomic assessment,  
3 and the ergonomic assessment that I had in February of '96,  
4 the company ergonomists came out, looked at my position,  
5 said there's not a thing we can do to this desk; as long you  
6 sit here, you're in trouble.

7 Then, actually, we moved our office in 1996 to new  
8 facilitates with desks that at least could have the rising  
9 keyboard, going up and down so that it could move to fit me.  
10 It helped a little. I finally received an ergonomic  
11 assessment in June, considering it had been asked for in  
12 January, and at that time, the company purchased a chair for  
13 me and a floor mat. It still didn't do everything. I was  
14 starting to have ulnar nerve problems in my right arm.

15 They did order a special keyboard and a mouse  
16 after a very nasty letter from my doctor, and the final  
17 accommodation was made nine months after my claim was filed  
18 for the carpal tunnel.

19 During this time period, I missed 10 days of work  
20 in the first year, which was pretty limited; I was working  
21 about ten hours a day six days a week at this point; and I  
22 received physical therapy twice a week for three and a half  
23 years. At the time I finished my physical therapy, the  
24 physical therapist said I was their second most senior  
25 patient; that's the only way I kept working.

1           In April of 1997, I had to have surgery on both of  
2           my hands, missing 10 weeks for that surgery. When my claim  
3           was closed this year, they told me that I have a 2 percent  
4           disability in my left arm and a 10 percent in my right.

5           I wonder how my life could have been different had  
6           the company made ergonomic adjustments to me before the  
7           fact, before I was injured. I sure would have liked it. It  
8           would have made my life a whole lot better. And I wonder  
9           how much less it would have cost them.

10          As it turned out, I've estimated some expenses.  
11          The new chair was probably about \$1,000; the keyboard that I  
12          have that eliminates the number pad is \$150; the mouse was  
13          about 50; and the floor pad was \$35. The chair -- The desk  
14          that I sat at was purchased for the office as a whole, and  
15          it happens to fit; it works fine; so they didn't put out any  
16          extra money for that.

17          For maybe \$2,000 worth of -- less than \$2,000  
18          worth of upgrades for me, they could have saved lost  
19          productivity; I don't have a figure for that. But I was  
20          paid more than \$10,000 in lost wages by workman's  
21          compensation. The permanent partial disability payment from  
22          the state of Washington was more than \$9,000. Doctors'  
23          bills and physical therapy must have cost thousands of  
24          dollars. I didn't see those bills; I don't know what it  
25          cost.



1                   It seems to me that any employer would be glad to  
2                   pay the money up front to save those kind of expenses after  
3                   the fact. And I'm looking at more surgery in the future on  
4                   my elbow.

5                   So, thanks for listening. I think this is a great  
6                   thing, and workers need it everywhere. Thank you.

7                   MR. WOOD: Thank you.

8                   I'd like to invite Lincoln Ferris, Richard Lind,  
9                   and Matthew Bernaud forward. After this panel, we'll take  
10                  a very brief break for the benefit of the court reporter,  
11                  and then we will move on with Maureen Bo, Janet Hays, and  
12                  Sue Morrison.

13                  You are?

14                  MR. LIND: My name is Richard Lind.

15                  MR. WOOD: Go ahead, Mr. Lind.

16                  MR. LIND: And the last name is spelled  
17                  Lima-India-November-Delta.

18                  I come to you today on behalf of myself. I am an  
19                  injured, occupationally-disabled court reporter. I would  
20                  like to endorse the testimony given by --

21                  UNIDENTIFIED SPEAKER: We can't hear back  
22                  here.

23                  MR. WOOD: Could you pull the mike a little  
24                  closer? You don't really need to speak louder; just keep  
25                  the mike real close to you.

1                   MR. LIND: I would like to endorse the  
2                   testimony given by Rick Bender, Mr. Causey, and Dr. Bruce  
3                   Bernard in that sooner that these rules come into play to  
4                   serve and protect the work standards, the better off we will  
5                   all be.

6                   I would like to start my testimony in that I would  
7                   like to address WAC 296-62-05105, as court reporting appears  
8                   to fall within the caution zone under "highly repetitive  
9                   motion" of the proposed rules, in looking through the rules,  
10                  specifically WAC 296-62-05174, Appendix B.

11                  This Appendix B, it addresses awkward working  
12                  positions, and I believe what should also be included, and  
13                  is not, is a pictorial and summary of a court reporter's  
14                  criteria to perform his or her job function, specifically,  
15                  the way in which they must sit on the edge of a chair with  
16                  no, or low, back support and to perform steno duties which  
17                  requires a frozen, prolonged, static posture, with arms  
18                  extended in a reaching position, thus producing static work  
19                  demands for the neck and the shoulder.

20                  And it must also be noted that there is no wrist  
21                  rest on or built into the steno machine, and usually no arm  
22                  supports, placing stress on the tendon of the wrist, thus  
23                  causing an upper-extremity risk factor of repetitiveness,  
24                  awkward posture, and as the body continues to break down,  
25                  forcefulness affecting the muscles, tendons, ligaments,

1 cartilage, and nerves, causing tendinitis, carpal tunnel  
2 syndrome, deQuervains disease, and digital neuritis, and  
3 further, causing a low back risk factor of static work  
4 posture, repetitive work, once again affecting muscles,  
5 cartilage, nerves, vertebrae, ligaments causing nonspecific  
6 backache, chronic low back pain, degenerative disc disease,  
7 back strain and back sprain.

8 As for myself, the Department of Labor and  
9 Industries, they originally came into my office on September  
10 20th of 1993. At that time, they did an on-site  
11 consultation to determine a further job restructuring to  
12 reduce spinal stress while working full-time as a court  
13 reporter.

14 The crux of the analysis was that it was  
15 recommended that, Richard investigate his professional  
16 association so assist in studying safety guidelines for  
17 work/rest time frames. Richard has been trying to be  
18 selective in his job assignments to allow for a lighter work  
19 schedule. But this is difficult, as time frames are  
20 prolonged, causing additional trauma. Therefore, it is  
21 recommended that Richard ask his attending physician about  
22 combining a part-time work schedule with a restoration  
23 therapy program.

24 Three, it is recommended that Richard consider  
25 leasing a vehicle that has power-steering, so that there is

1       less pulling on the steering wheel; has cruise control,  
2       where he can reduce his static load of the weight on his  
3       leg; that he can build up his steering wheel itself, so that  
4       it is not such a small grip; has more room to transport his  
5       sound system. And it is recommended that Richard use his  
6       hands-free voice system speaker on his phone whenever  
7       possible while in the office.

8               It is recommended that Richard fabricate a stand  
9       that could be attached to a soft pack on his steno, which  
10       would raise his steno holder and allow him to stand while  
11       keyboarding. This will provide Richard with a sit-stand  
12       work station, and he could alter his posture at his  
13       discretion. It was recommended that Richard ice the upper  
14       extremity and possibly discuss with his attending physician  
15       the need for a resting splint for the right thumb as he  
16       shows symptoms of DeQuervains.

17              And this goes on and on and on, and the bottom  
18       line was the Department of Labor came to me, and they said  
19       there's no proof of a specific injury. The claimant's  
20       condition is not a result of an industrial injury, that the  
21       claimant's condition preexisted, that the claimants  
22       condition is not an occupational disease.

23              All right. Here we sit seven years later, and I  
24       hope that the Department of Labor is doing this to help the  
25       worker and not limit the liability that it should take. And

1 from time to time, people like myself, we fall through the  
2 loopholes.

3 And luckily for myself, about 15 years ago, I took  
4 out a private disability insurance policy, which now today  
5 pays me \$50,000 a year to stay home to be Mr. Mom. I attend  
6 the swimming pool twice a day for pain, and I do that  
7 because I can no longer take drugs. The drugs that the gave  
8 put me into Sundown M Ranch in Eastern Washington for 60  
9 days to get off all the prescriptions that the doctors had  
10 me on.

11 So, if the rules that you adopt today can help  
12 just one person, it will be a success.

13 Thank you very much.

14 MR. WOOD: Thank you.

15 MR. LIND: As you can tell, this was quite  
16 emotional for me.

17 MR. WOOD: We appreciate your willingness to  
18 talk.

19 Let's go ahead and take a five-minute break.  
20 After the break, I'm going to ask Maureen Bo, Janet Hays,  
21 Sue Morrison, Linda McKeever, Henry Haba, and Karen Kramer  
22 to be ready to come forward, and we will take the first  
23 three of you that are actually present and move on to the  
24 hearing at that time.

25 (Hearing at short break.)

1                   MR. WALTERS: We're ready to resume the  
2                   hearing, and I call Maureen Bo.

3                   MS. BO: I'm Maureen Bo, and I am vice  
4                   president of Office of Professional Employees International  
5                   Union, and we represent 155,000 members across the United  
6                   States and Canada, and I'm also a business manager of Office  
7                   Employees here in Seattle, Local 8.

8                   On behalf of 5,000 members of Office and  
9                   Professional Employees in Washington state in Locals 8, 11,  
10                  and 23, I am speaking in favor of the rules as proposed by  
11                  the department. The rules are responsible, cost-effective,  
12                  sensible, and civilized public policy. We commend the  
13                  department for its responsible actions in protecting  
14                  workers.

15                  The members of OPEIU will testify and submit  
16                  statements on their specific injuries and how they could  
17                  have been prevented by the application of the new proposed  
18                  rules. As the union rep who negotiates labor agreements and  
19                  represents members with work place problems, I am speaking  
20                  from my general experience, representing workers for the  
21                  past 15 years.

22                  During the last 15 years, carpal tunnel injuries  
23                  have reached epidemic proportions among office and  
24                  professional employees. Neck, back, and shoulder injuries  
25                  follow as a close second. At any given time, I suspect that

1 a quarter of my members are suffering from one of these  
2 kinds of injuries.

3 The injuries are not cheap for employers or  
4 workers. The resulting worker's comp claims, medical costs,  
5 time loss, pain, and sometimes permanent impairment means  
6 that everyone pays. Injuries could be avoided and reduced  
7 with the properly-designed work stations, equipment, and  
8 training of employees and supervisors, exactly the point of  
9 the new rules.

10 As a union rep dealing with workers' problems that  
11 result from poorly-designed workstations and practices, I  
12 find - I still find, even in the year 2000 - that there are  
13 many employers who believe that ergonomics injuries are  
14 really all in their heads or that the employees are just  
15 malingering. There's no sign of broken bones or blood  
16 there, so these things don't seem too real.

17 There are employers who refuse or delay doing  
18 ergonomic assessments and workstation changes because of the  
19 upfront costs. They say, what's the big deal. For a  
20 typical example, just because a medical receptionist has to  
21 reach up over a shoulder-high counter to hand a patient  
22 paperwork, that shouldn't cause any injury, unless, of  
23 course, the worker must do that several hundred times a  
24 week, month after month, year after year, that it was  
25 previously referred to the jillion jolts; this is the

1       jillion lunges that have to be done to do that job.

2               A Local 8 member will be testifying - in fact,  
3       several Local 8 members will be testifying - to this kind of  
4       injury, which is typical of receptionists and medical  
5       records clerks. This, in addition to carpal tunnel  
6       injuries, which are the most common in office workers who  
7       must do heavy production with computers, is the bulk of the  
8       injuries that office workers suffer. Those workers will  
9       tell you, as I do, that these injuries are preventable.

10              If the employer had responded to the workers'  
11       requests promptly, assessed the work station promptly, and  
12       made changes that the employee needed, about six months of  
13       time loss, productivity loss, retraining costs, the burden  
14       on coworkers, and immeasurable pain and medical expense  
15       could have been avoided.

16              The proposed rule changes are right on point.  
17       Training for supervisors and employees, assessment of  
18       caution zone jobs, involvement of employees in analyzing  
19       jobs and selecting control measures make good sense.  
20       They've long been waiting -- We have long been waiting for  
21       this kind of rule or training process.

22              The only addition to the rule that I would suggest  
23       is that the rule should require greater participation of  
24       employees. Employees should be allowed to choose their own  
25       representatives in the job assessment and review process.



1 They know best who can speak for them and their work.

2 In the long run, these measures will save  
3 employers and the state money. They will save employers --  
4 workers pain and permanent impairments. So the question is  
5 not, why should employers pay; it is, do they want to pay  
6 now, or do they want to pay even more later through sick  
7 leave, experience rate increases for their L&I, productivity  
8 losses, morale, retraining.

9 For the state the question is, is it responsive  
10 and responsible public policy to allow workers to be injured  
11 when the workers -- when the injuries could be avoided? The  
12 state has answered that question correctly.

13 Thanks to the Department of Labor and Industries  
14 staff for the work on these rules and for your courage in  
15 presenting them. And we urge you to implement the proposed  
16 rules with a possible addition of the requirement that  
17 employees choose their own rank and file member to be on the  
18 assessment team.

19 MR. WALTERS: Thank you.

20 Janet Hays?

21 MS. HAYS: My name is Janet Hays, and I work  
22 for King County Solid Waste.

23 I'm a scale operator, and I was injured in October  
24 of '93 with a shoulder injury to my left shoulder. I went  
25 out into physical therapy for three months and with the

1       promise that my work station would be changed. And I ended  
2       up going back to work after three months; nothing had been  
3       changed, and I had to have shoulder surgery, rotator cuff.

4               After that time, my doctor and I both determined  
5       that it was probably opening and shutting the glass sliding  
6       doors up to 300 -- a minimum of 300 times a day that had  
7       caused the problem, and reaching out to the customers with  
8       their change. So I lobbied at work to try to get changes  
9       made. And in May of '98, five years later, they put in  
10      automated doors, and that helped part of the problem.

11             I also filed a claim with WISHA, and they came out  
12      to our work site -- and this was after we did a survey at  
13      work. There were 32 of us. We sent out surveys to all of  
14      them; 22 responded, and 19 had repetitive motion injuries or  
15      musculoskeletal injuries. Maybe six or seven of them had  
16      filed claims; the rest were going through their own private  
17      insurance because they had seen how the people that had  
18      filed claims were treated.

19             After my surgery, six people have now had to have  
20      the same shoulder surgery. In '97, I went out again, April  
21      of '97, with my right shoulder, then thinking that I was  
22      going to need the surgery. And since then I've made 46  
23      visits to my doctor of osteopathy for adjustments, two  
24      visits to the shoulder orthopedist, 16 visits to a sports  
25      orthopedist, 59 visits to the physical therapist.

1                   I put 7,000 miles on my car in 18 months, and  
2                   still nothing has changed at work except for the doors have  
3                   been automated. There's still nothing been done to address  
4                   the region problem. So, I just wanted to let you know that  
5                   I support the proposed rule, and my only concern is that,  
6                   how they decide or define if you're in that caution zone.

7                   Being a scale operator, I don't see where -- I  
8                   don't operate a scale, but that's what we're called anyway.  
9                   We wait on customers that come to the transfer stations, and  
10                  we reach out up to 4,000 times a day, and we're using our  
11                  shoulders and our arms to do that reaching. There's no  
12                  drawer that helps us; it's our bodies that are doing it.

13                  And I have just watched people follow me. I was  
14                  the first one to have the surgery, and now I've seen people  
15                  following me into just as bad, out four months at a time, so  
16                  I just don't want that to happen to anybody else.

17                  And I'd like to know, with your proposal and the  
18                  rules, what happens to the people that are injured right  
19                  now? And another thing I'd like to know, or I'd like stated  
20                  is, how can you separate the parts of your body?

21                  What I found when I filed my claims was that I  
22                  filed my last thing for my right shoulder, but it also  
23                  involved my neck and my lower back because I was  
24                  compensating for the problems of my left shoulder. So, it  
25                  ends up involving your whole body, but when you're filing a

1 claim, you have to state a specific part, and then you have  
2 to fight to have that part covered. And you also have to  
3 work with your doctor who's encouraging you to go through  
4 private insurance and not through L&I, because it's hard for  
5 them to deal with, too.

6 So, I don't know what else I have to say, except  
7 for I do support this ruling, anything that will help  
8 ergonomically. I've definitely suffered.

9 MR. WALTERS: Thank you very much.

10 MS. HAYS: Thank you.

11 MR. WALTERS: Sue Morrison?

12 MS. MORRISON: Yes. I'm Sue Morrison. I  
13 also am a scale operator for King County. I'm also, more  
14 importantly, a sole wage earner and head of household.

15 In March of '98, I received a repetitive injury  
16 with the resulting loss of wages, which, of course, affected  
17 me and my family. I eventually then had surgery on my  
18 shoulder and rotator cuff and collarbone; the resulting  
19 medications that I had to go through; my surgeon being told  
20 that he cannot be my advocate as changes weren't made in my  
21 workplace; he could only deal with me medically.

22 A month after my surgery I was informed that I had  
23 a loss of benefits. My family would no longer receive any  
24 benefits. My L&I, of course, was covered; my shoulder was  
25 covered; but should anything happen to me or any member of

1 my family until I could get back to work, I would have no  
2 insurance. I fought that. Again, I had an attempt at  
3 displacing me from my job after I had been back to work  
4 full-time for 12 months. I fought that.

5 I have suffered the derision of my coworkers,  
6 because they see how other people who have filed L&I claims  
7 have been treated. They don't want to suffer the same  
8 consequences, so they deal with their treatment for their  
9 injuries and the remedies for their injuries through their  
10 own private insurance. If private insurance knew how  
11 many -- how much money they spend that are truly L&I claims,  
12 perhaps that's why our private insurance is so high.

13 I have had intimidating conversations by my  
14 supervisor; I have had threat of loss of job by my division  
15 manager, actually, not me personally, but as a group; twice  
16 that's happened; constant harassment and disputes; a couple  
17 of derisive conversations with the safety officer.

18 I'm concerned with the part of the proposal that  
19 allows the employer to identify the caution zone jobs. We  
20 have documented high incidences of injury, yet there's been  
21 no recognition of that by management. And in reading this  
22 new proposal, which I have just done spottily today, we  
23 might not be recognized -- My work force group might not be  
24 recognized in this, either. I know I suffer from a  
25 poorly-designed workplace. I do repetitive work with the

1 public. My safety officer says my complaints are not  
2 enough; I don't reach out far enough, not high enough, not  
3 repetitive enough.

4 I don't have enough trauma to my foot to have any  
5 validity to a complaint about trauma, which is a new  
6 flooring complaint that doesn't address the surgery that I  
7 had on my shoulder, but the flooring complaint, his remedy  
8 is that I should buy better shoes.

9 Also as a remedy to the over-reaching that we do  
10 to the public, a butterfly net is the county's answer to a  
11 remedy; a method of abatement, I think is the official WISHA  
12 words. The weight that that would put on my whole arm would  
13 have to be addressed by somebody who's in orthopedics, I  
14 would think.

15 I do know, I have a picture of -- In my safety and  
16 claims office, they have a real tacky cartoon that says,  
17 "King County employees suck." So I know where I won't be  
18 going for help. So I'm here today, hoping that Labor and  
19 Industries' efforts on this ergonomic proposal will be  
20 enough, and I hope that the ball isn't dropped because so  
21 many times it has been. I appreciate your attempts.

22 Thank you.

23 MR. WALTERS: Thanks for coming.

24 Lincoln Ferris, Matthew Bernaud.

25 UNIDENTIFIED SPEAKER: Both of them had to

1 leave.

2 MR. WALTERS: Thank you. I would next call  
3 Linda McKeever, Henry Haba, and Karen Kramer.

4 MS. MCKEEVER: My name is Linda McKeever. The  
5 spelling on the last name is M-c-K-e-e-v-like Victor-e-r. I  
6 represent the United Steel Workers of America, Local 9241.  
7 Our local is primarily based out of Bangor at the submarine  
8 base. There are some subsets of that unit, which my unit  
9 is, which are the noncommissioned police employees of the  
10 Tukwila Police Department.

11 Our position, our group represents predominately  
12 some clerical workers, which can be very prone to the type  
13 of injuries that we've been discussing today. I have to  
14 admit that my employers - probably one of a minority in  
15 comparison to the employers that have been discussed today -  
16 our employer has taken steps to prevent these type of  
17 injuries from the beginning from when I originally was  
18 employed eight years ago.

19 It's been a very good effort in combination with  
20 the employer and the employees to prevent these type of  
21 injuries and investigate the type of equipment that will  
22 prevent them. I think the one aspect of our employer that  
23 they recognize is that there is a cost associated with this  
24 prevention, and they have addressed it. They have gone to  
25 bat for us in budgets to make sure that we do have that

1 money available to us when the equipment is needed and when  
2 it needs to be replaced.

3 Some of the examples of what has happened in our  
4 workplace equipment that has been brought in, it's been a  
5 variety of things. Ergonomic keyboards when they were  
6 coming into making were very expensive, and the one that we  
7 looked at initially when it came on to the market was a  
8 kinesis keyboard. Initially, when it came out on the  
9 market, it was a \$600 keyboard. They bought it. \$600. You  
10 can get them now for around, I think, \$200. But they were  
11 willing to go to the cutting edge of equipment and pay \$600  
12 for a keyboard.

13 Other measures that they've gone to are chairs.  
14 We are a 24 operation; we have seven people in the front  
15 office staff. So there's a variety of proportion of people  
16 to accommodate in that work group. They are willing to buy  
17 the best chairs that are adjustable in height, seat  
18 position, back position in a variety of different styles.  
19 They'll have the sales rep bring in chairs for us to try out  
20 first of all and find out which is the best working models,  
21 and buy those models.

22 They've taken a lot of the manual aspects, such as  
23 stapling; we have all electric staples; there are no more  
24 manual staplers in our environment. Foot rests, so that we  
25 can position ourselves in our chairs adequately.



1           The gentleman had asked during the question period  
2           about the feasibility issue in which money seems to probably  
3           be the big one, I think, for a lot of employers, and I think  
4           we have shown here in our city that the money aspect is  
5           feasible; it's just a matter of people making it -- of  
6           employers making it a priority to make sure that these  
7           employers are not injured on the job. And we thank God we  
8           have the employer that we do that does accommodate those  
9           issues.

10           The challenge, I think, will be the feasibility  
11           issue; how do you determine feasibility; and that financial  
12           aspect; how are they going to explain the financial  
13           feasibility of doing it. It can be done; it has been done;  
14           it's being done now. It can be done.

15           These employers need to realize that part of the  
16           budget process is going to be making sure that people aren't  
17           injured on the job and providing equipment that will do it,  
18           no matter what the cost is. And looking at the cutting edge  
19           equipment that's out there to prevent that.

20           And that's primarily all I have to say today.

21           MR. WALTERS: Thank you very much.

22           Henry?

23           MR. HABA: I am Henry Haba. I represent Local  
24           131 of the Carpenters. My last name is spelled H-a-b-a, as  
25           in Boston. I'm 77 years old and not an ache of pain in my

1 body. I take care of myself.

2 I'm going to talk on both sides of the fence for  
3 you. I started out in like 1947. In my second job, I went  
4 to Hanford, and I got an education there. I worked with --  
5 we built in forms; we had repetition hammering, and men  
6 would come down with sore arms. We didn't know what was the  
7 matter.

8 So we built our own handles, put our own handles  
9 in, and built them different. And it worked. We linked  
10 them. We put different -- We laminated them. And we didn't  
11 have any injuries. But that's kind of went away because we  
12 separated. Mine, I haven't had one, and I learned how to  
13 hold a hammer. So, I believe the responsibility is on  
14 ourselves.

15 And I worked in the reactor. We built the  
16 reactors, big forms; you know, you wrestle some big ones.  
17 We had places you had to pull nails out of, on funny places.  
18 The wrecking bar would snap back; we'd be behind new  
19 wrecking bars, that you wouldn't get your hand behind the  
20 stuff. Right now the wrecking bars aren't on the market. A  
21 lot of those things, the hammers have changed. They have  
22 every kind of hammer, if you just look into it.

23 The motors and the saw were bad; the guards were  
24 bad. It was the balance of the saw, but we did -- It broke  
25 the guard off. Then we told the owner, they're not good;

1 the guard breaks off. We did it ever since, and then we got  
2 a different kind of motor, with the motor straight in line.  
3 It was easier to hold. We didn't know what we were looking  
4 at. But it was like we were lazy, but we weren't.

5 I had a lot of jobs, and that one in the Metro  
6 Tunnel, people from Canada came down. They were going to  
7 use the same saw. I said, you can't use it here. I said,  
8 men won't use it. The first two saws they got, we broke  
9 'em. And they got different saws, like we like, and it was  
10 no problem.

11 And I worked on the reactors when they -- we  
12 remodeled them. We went down and took out the stuff out of  
13 those tanks. I was the first man that ever drilled a hole  
14 in there. But we learned how to work at a distance. We had  
15 to use more machinery.

16 And as ergonomics developed, in the field, not  
17 from up above here as some suggested, and as we were going  
18 along, we had first aid, that we really preached it. I had  
19 labor and mines, mines and industry first aid since '48.  
20 I've always kept up to date. In 32 years I've been  
21 superintendent where I was at, I never had one lost time  
22 accident, not one.

23 But I had L&I come on the job, and they would come  
24 down, and they'd ask -- they had subs, when they got subs to  
25 talk to me. In 1962, they worked for me. They meddled in

1       there. That's what it would get you people. They meddled  
2       in there. If there was a broken saw or something or a nail  
3       gun, it was tagged, red-tagged, to be fixed. They just put  
4       in there. But I never had to deal -- but I got along with  
5       all of them. But mostly, I'm thinking that - I answered the  
6       question before - do we have a little bit of labor people  
7       into your department.

8               Now, we had a guy fall, a good friend of mine. He  
9       worked at Hanford for me two years, when he fell. He fell  
10      60 feet, and he lived. Became the safety man. You know,  
11      the safety was improved in that job eventually because he  
12      knew exactly what they were doing, and I think a lot of  
13      those people you hire, I know some of them have a nice tie,  
14      nice fellow come to you, run a computer, dress good, nice  
15      resume. You ask them what they know and what they did. I  
16      think you should have more people that was there. Now would  
17      be a time to employ -- they're not a handicap; they're just  
18      hurting people; and nobody hurts more than me if I've hurt a  
19      man.

20             Now, just for instance, like screwdrivers. Here's  
21      a screwdriver they have. They have plastic ones.  
22      Everybody's got one. Sears has thousands of them. You use  
23      it like this; it pushes on the palm of your hand. I used  
24      the pliers one time, until the doctor told me, you're going  
25      to wreck that bottom of your hand; you'll never use it

1       again; so I threw them all away.

2               Now I have all different ones. One I come across,  
3       that cost four dollars and a half. I come across this one  
4       here; they put 1,000 volts electrical, just come out. It  
5       feels different, but it's a little slippery. The weight has  
6       been transformed to your fingers. Now I can do it a lot  
7       more. In fact, I'm going to throw all mine away. I've got  
8       new ones here, and I'm still working out there ...

9               Now a new one comes out again, and it costs \$9,  
10       but it's softer. Man, you could work all day with this. So  
11       it shows that we need what you're suggesting. We need it  
12       really bad. But I think we've got to look at how some of  
13       the employers won't even come down and look at it, and maybe  
14       there should be more introduction from you people into the  
15       labor force. You better stop buying those tools; look at  
16       what you're buying. That's all store-bought. Don't buy  
17       from them; they don't get it. You build a better mousetrap,  
18       and they'll come.

19              So, I am retired and everything else, but I'm  
20       going to go into this because I expect to live a long time  
21       yet. My estimate is 118; that's when my money runs out.

22              Anyway, thanks for your time.

23              MR. WALTERS: Thank you very much.

24              Karen Kramer? (No response.) Lila Smith? Lila.

25       Dick Patton? (No response.) Rosalie Gammelgaard? Marjie

1            Peterson?   Eric Hands?

2 (Discussion off the record.)

3 MS. SMITH: My name is Lila Smith, that's  
4 L-i-l-a.

5 I was a ticket seller for Washington State  
6 Ferries, and I was injured by the changes made in my work  
7 station. These changes were designed by two very large men,  
8 and disproportionately, women and smaller people, such as  
9 Asians, were injured as a result. I was diagnosed with  
10 seller shoulder and tennis elbow.

11 I was very, very tender in through here,  
12 inflammation of the ligaments to my elbow and my shoulder.  
13 It's from hyperextending, from reaching and pulling and  
14 twisting. The machines were too far away from -- It was  
15 just redesigned. People with long arms could do it without  
16 damaging themselves. I could not.

17 I tried to work smarter. I found myself sleeping  
18 with ice packs on my arm and my shoulder so that I wouldn't  
19 be awakened with the pain. I saw physical therapists; I  
20 took the drugs for the inflammation; and I've been  
21 prescribed a number of psycho -- Prozac and the like, as  
22 well, because -- so that I could pretend that it didn't  
23 exist, I think.

24                   And this went on for months, and it affected every  
25       area of my life. I couldn't push a vacuum cleaner; I

1       couldn't pull weeds in the garden; I couldn't brush my teeth  
2       with a regular toothbrush; I had to buy an electric  
3       toothbrush and hold it with two arms. Thank heavens for  
4       technology. I couldn't hold a knife strong enough, long  
5       enough, hard enough to chop an onion; and it hurt to put a  
6       sweater on over my head.

7               When I was losing sensation in my fingers and I  
8       hurt through my wrist, and I thought, I might have  
9       grandchildren someday, and I will want to hold them, and if  
10      I'm going to hold them, I'm going to need to be able to feel  
11      them. At that point, I went off work on an L&I disability,  
12      and I lost income as a result. I had to take my vacation  
13      comp time off to be sick, to make up for the difference for  
14      what L&I paid because I was off.

15             Well, I decided to change things in my workplace.  
16      Because there were no ergonomic standards, it was up to me  
17      and my persistence to make things happen, and it was a  
18      struggle. I was on my own to make it better for me and for  
19      others. I regret to say that to this day others are still  
20      struggling there, and injuries continue.

21             When you speak up, you also run the risk of  
22      retaliation. The supervising level made it very clear that  
23      they did not approve of my requests. When they did make  
24      modifications to accommodate me, I was isolated and  
25      disparaged. A booth was modified at the edge of the

1 facility, and again my income was impacted. My range of  
2 schedule choice was severely limited, as I was only allowed  
3 to work in that booth. It was derisively called "Lila's  
4 booth."

5 The retaliation adds insult to injury and is and  
6 in and of itself another injury. People in the workplace  
7 told me they would never speak up, as they didn't want to be  
8 treated the way I had been treated for speaking up. In  
9 addition to the physical limitations, there's the suffering  
10 of depression that's prevalent as a consequence of workplace  
11 injuries.

12 My kids had a hard time, too. I looked normal, so  
13 they didn't understand why I couldn't go to the grocery  
14 store alone. I couldn't push the grocery cart. This is not  
15 a trivial problem.

16 The thing about my injuries, and many more, is  
17 that it is unnecessary for people to suffer like this.  
18 These potentially permanently debilitating injuries are  
19 largely avoidable with what often amounts to minor ergonomic  
20 changes, as in my case.

21 I was selling my employer the right to my labor,  
22 but it turns out I was selling my upper body strength. I  
23 was selling the right to go bowling, to garden, to cook and  
24 clean for my family, and so much more. My employer got all  
25 that from me. That's way more than they are paying for.



1       They get their labor; they shouldn't get more.

2               What good does it do them anyway? Let me give you  
3       an analogy for the big picture. There are shoes in the  
4       anthropology museum in Vancouver, B.C. that are three or  
5       four inches long. They're for the feet of Chinese women who  
6       have had their foot bones broken to fit into these slippers.  
7       They're embroidered in a fine stitch called the forbidden  
8       stitch. It's forbidden because people went blind creating  
9       it.

10              These objects were prized because you not only had  
11       the beautiful, delicate slippers, but you had someone's  
12       eyesight. That was in Imperialist China; I don't think we  
13       want that here. As a matter of public policy, we don't  
14       expect people to go to work to give up the use of their  
15       arms, the ability to stand up straight, their eyesight, or  
16       whatever else it might be. We cannot permit that as a  
17       society.

18              Thank you for rules that will require employer  
19       responsibility.

20              MR. WALTERS: Thank you.

21              Rosalie?

22              MS. GAMMELGAARD: My name is Rosalie  
23       Gammelgaard; that's R-o-s-a-l-i-e, last name,  
24       G-a-m-m-e-l-g-a-a-r-d. And I'm speaking as a private  
25       citizen in support of this law.

1           I have worked for 16 years as a customer service  
2       representative for a major corporation, wearing a headset  
3       and sitting at a computer. It's a job done mainly by women.  
4       Many with whom I've worked have suffered disabling injuries,  
5       most to wrist and hand function. They have endured  
6       surgeries, lost income, and retired early. Those who have  
7       suffered injuries have had their work stations modified.

8           Over the years, adjustable chairs and wrist rests  
9       have been purchased, but computer height and keyboard height  
10      are the same; they're not adjustable; they're the same  
11      throughout the office. The old computer keyboards that we  
12      had for a number of years were severely slanted; they were  
13      about an inch and a half high at the front and about between  
14      three and four inches high at the back, which kept your  
15      wrists slanted.

16          I was very, very fortunate in that I developed a  
17      case of severe tendinitis about five years ago, just as I'd  
18      heard we were about to get new computers. As a single  
19      parent I could not afford to reduce my working hours; so I  
20      worked in pain; I took anti-inflammatories; and I curtailed  
21      my outside activities, to the degree that it took away my  
22      freedom. It took away my freedom to make choices about what  
23      to do with my body on my time.

24          I signed up to be among the first classes to learn  
25      to use the new computers, and with the new flat keyboards,

1 the tendinitis went away.

2 Several years later, I experienced an injury  
3 similar to that described by Dan Koebel earlier, the  
4 gentleman that was here wearing the neck brace. Eventually,  
5 an MRI showed that I'd had herniated discs at C6 and C7, and  
6 I had radiating pain down my right arm; I could not turn my  
7 head.

8 I went through hours of physical therapy; went  
9 through pain that no painkillers I took could touch; was  
10 flat on my back for the better part of four months; and when  
11 I came back to work, could only work part-time because I  
12 could not hold up my head for eight hours at a time.

13 I now work where the computer station has this  
14 little plastic dealy-bob, little shelf. I don't know how  
15 much it costs; I bet it costs less than \$10. My monitor is  
16 now two inches higher than it used to be, and I am pain  
17 free.

18 As long as policy by default is that modifications  
19 to workstations are done in response to injury, rather than  
20 in order to prevent injury, the cost is borne in a trade  
21 that we did not bargain for and would not willingly have  
22 made by those who modified their lives.

23 Thank you.

24 MR. WALTERS: Thank you.

25 Marjie?

1 MS. PETERSON: I'm Marjie Peterson, and I'm  
2 the president of Macrosearch. Macrosearch is a  
3 rapidly-growing company. We've been growing for about seven  
4 or eight years, but we're still quite small. We have about  
5 150 employees. We are Washington-based.

6 As a small and growing company, we found there are  
7 two things that are critical to our health. One of them is  
8 productive employees, and the other one is money. We have  
9 to have money to front our growth. And we found both of  
10 these to be scarce resources. So we guard them zealously.

11 To help keep our employees healthy, we provide the  
12 normal benefits: health insurance, training, flu shots,  
13 special equipment, those little plastic things; they help  
14 people with their computers. Our employees are critical to  
15 us, and we're willing to invest in them. We can't afford,  
16 however, to throw our money away.

17 It's my understanding that the ergonomic solutions  
18 that are being imposed on employers are unproven, and that  
19 puts us and small companies like us at risk of throwing our  
20 money away. And that risk is not only the health of our  
21 employees, but the health of our businesses.

22 I would request that before charging companies  
23 with the responsibility for implementing these programs, you  
24 test them through large-scale integrated pilot programs.  
25 That not only would identify exactly what works, exactly

1       what doesn't work, but it would help companies to implement  
2       these programs on their own later on.

3               You get paths for us, and make the whole thing  
4       less expensive. And as I see it, that's the only way that  
5       we can ensure our employees, our companies, and our state  
6       economy stays healthy.

7               MR. WALTERS: Thank you.

8               Eric?

9               MR. HANDS: Well, thank you for this  
10       opportunity to talk. I'll try to be brief.

11              I think that's an important issue that's been  
12       raised about cost and the pilot program testing; but again,  
13       there's a lot of hand waving that goes on in the legislative  
14       and administrative processes, due to the deployment of many  
15       state lobbyists and political various concerns. And,  
16       typically, the method of finalizing the final report and  
17       implementing that report with findings leaves something to  
18       be desired.

19              So, if we are going to implement pilot programs to  
20       relieve small business of some of the cost, I think we  
21       should also make sure that we have an implementation process  
22       in place to make sure that the findings are, in fact,  
23       implemented in a timely and efficient manner with, say, a  
24       trail-end stop that it not take any longer than, you know,  
25       the time period that's defined by the administrative and

1 legislative processes.

2 Before I go on with my own personal tail of woe,  
3 I'd like to just state that I have a number of letters here.  
4 I'm in Who's Who in American Science and Engineering for the  
5 Millennium, Business and Management, and I'll be in the  
6 Who's Who in America, and I have recommendations from the  
7 president of American Ship Management thanking me for my  
8 proactive interest in the restoration of the PRESIDENT  
9 JEFFERSON; quote, Your proposal is indeed admirable and  
10 exactly the attitude and effort that is necessary to  
11 maintain the competitiveness of our US flag fleet. I have a  
12 number of these.

13 I first injured my back in the Navy when I was 18  
14 during a typhoon and never reported it. And I've lived all  
15 my life with the aftereffects of the one time I was sprayed  
16 by Agent Orange in August of '64, and all their radioactive  
17 nucleoids they dumped on us right before the Cuban missile  
18 crisis to find out if indeed the missiles went off, they  
19 would handle it. And so, we've got that.

20 And I've worked at international laboratories, and  
21 I've stood next to stacks of plutonium. And I've been in --  
22 worked years in landscaping when we used what was Agent  
23 Orange in the fields. So when Dow Chemical Company said  
24 they didn't know about it, they're lying, because it was  
25 printed plainly when we bought it down into landscape

1 clients in '67, in Santa Barbara in '66.

2 And I was involved in getting Dow Chemical Company  
3 to take some responsibility for that; and I can tell you  
4 firsthand that even as a legislative intern working for  
5 Senator David Roberti in the state legislature in  
6 California, I was subject to severe penalties and  
7 repercussions, I was blacklisted.

8 And I ended up having worked as a carpenter. I'm  
9 now in Local Union 131. And I mentioned something about  
10 back injuries last night at the union meeting. We've got  
11 all kinds of, you know, speeches about the other carpenters,  
12 so ... When you put these standards out in the work place,  
13 don't count on the union to enforce them. Don't count on  
14 our fellow workers to enforce them, because they won't.

15 I've been the guy that's been understripping the  
16 underside of the decks, and while this gentleman says he's  
17 worked 40 years without an injury -- You know, I look pretty  
18 healthy to you, and I've usually dealt with my injuries on  
19 my own, but I've been injured a number of times, and it's  
20 not because I don't know technique; I do know technique, and  
21 I know all these tricks of the trade this gentleman's talked  
22 about.

23 But they like to get guys like me out there and do  
24 all the s-h-i-t work while they prance around about what  
25 great carpenters they are. That's sort of typical in the

1 unions. So don't count on the union to back up anything  
2 under ergonomics.

3 And don't count on the contractors. It's a facade  
4 that they're putting out on this workplace safety. It's  
5 just another management way to harass the worker. They  
6 don't know what's safe and what isn't. By the time we load  
7 up with all these lanyards, 100 percent tie-off, an extra 80  
8 pounds that we carry all day long, hardhat on all day long.

9 So when it's 100 degrees out, by the time it's 2  
10 p.m. in the afternoon, you're not thinking straight. That's  
11 a definite safety hazard. I'd rather walk on my own  
12 somewhere out on the edge and be free to move than lie tied  
13 off with all this garbage. Now, when I have to hang over  
14 the side, that's a different matter. But, I mean, these are  
15 judgment issues, and I'm not trying to get in there on a  
16 personal thing.

17 But I'm just telling you, we've got a burden to  
18 carry, and these guys sitting in the offices haven't got a  
19 clue, not even remotely. Now, I've worked as an engineer;  
20 I've worked in the office; I've worked with the computers; I  
21 did data entry; I worked on software development teams in  
22 '80, '81. So I know a little something about that side of  
23 it, too, in the work place harassment.

24 I'm been a product of it; I've been subjected to  
25 it, because either, I don't know, I've got bad B.O., or I



1 looked at my fellow coworkers wrong, or maybe they knew that  
2 I had worked on the Kennedy assassination investigation for  
3 the House Assassination Committee in '78, and I maybe knew  
4 something I shouldn't be supposed to knowing, and they got  
5 rid of me for that.

6 But at any rate, when you're looking at ergonomics  
7 and all the rest of it, you know, there's a whole realm of  
8 associated linkages that need to be dealt with. And again,  
9 the burden's on us. I go to get my acupuncture; I do my  
10 chiropractic; I do my exercising; I do my swimming. I've  
11 dealt with it.

12 I'm 55. I was first hurt severely when I was 18.  
13 I've carried the load. We've gotten a lot of national  
14 security issues, operations, done where I was the main man.  
15 I've carried the load in construction and everywhere else,  
16 and I've never complained. This is the first time.

17 And I would urge you to, you know, review this  
18 procedure here because we do need protection out there in  
19 the workplace. And often, we need it from the very people  
20 that claim they're protecting us, while they're supposedly  
21 protecting us. The law school library at Seattle U, our  
22 whole crew was lucky, including our job steward, an  
23 Afro-American man, because they built a free-standing  
24 four-story wall that that weekend, in fact, the winds came  
25 up. I went up to them and told them to put the steel

1       bracing on. If those winds had come up on Friday before  
2       they got the steel bracings up, that thing would have gone  
3       over on the office next door where there were people like  
4       these ladies working, and they would have been killed  
5       instantly.

6               It's totally irresponsible, and I think we need to  
7       address these issues. And when I brought that issue up,  
8       they got the engineers who designed the tier, but I was  
9       terminated Friday afternoon at three, while I was up on the  
10      wall. And then the rest of the crew was let go the  
11      following Monday, so ... You know, there's a lot to -- And  
12      the union didn't do a thing. They didn't do a thing. They  
13      had their buddies who were subbing out on that job, whereas  
14      they were in their hip pocket of each other.

15             Thank you.

16             MR. WALTERS: Thank you.

17             Richard Rawlings?

18             MR. RAWLINGS: My name's Richard Rawlings.  
19       I'm a member of 131. I've been a carpenter, been building  
20       things since I was about 14 years old.

21             I came down in favor of continued research and  
22       implementation on the ergonomics, because I can tell you, we  
23       have come quite a ways. And some of the jobs I've been on  
24       have been much safer, and I do appreciate it.

25             I, too, was on that law library job, and it was so

1 unsafe that I just went up to them and said, look, I'm not  
2 comfortable with this; it ain't working out; could I have my  
3 check please. And they were kind of skunky about that. We  
4 had to go around and around about that.

5 The reason I'm bringing it up - someone else has  
6 mentioned it - here was a case where all the laws and all of  
7 the regulations were implemented, or they were in place, but  
8 not implemented, not enforced. So it -- And I'm not saying  
9 it was anybody's fault that it wasn't enforced; it just  
10 didn't happen. And we bore the brunt of that, the danger of  
11 it, and I can remember some pretty severe anxiety over it,  
12 because just you're in a life-threatening situation, and  
13 you're trying to do your best job.

14 So if I could, just take a few minutes to say I do  
15 support what's going on here. I hope it continues. And it  
16 has -- It's borne fruit in some positive directions, good  
17 companies like Kiewit, Hoffman, and Sellen. They, I  
18 believe, are getting the benefit of reduced insurance rates  
19 because they've taken steps to reduce workplace injuries,  
20 and the back injuries are the big thing with our craft, our  
21 trade, our business. And we have benefited.

22 And I believe that it was worth the time to come  
23 up and say that because it looks like what happens is that  
24 society as a whole, or the state as a whole, in other  
25 departments and other divisions, bears the brunt of this if

1 the businesses don't implement it.

2 I guess that's what I came to say.

3 MR. WALTERS: Thank you.

4 MR. RAWLINGS: Thank you.

5 MR. WALTERS: Is there anyone else who would  
6 like to testify, who has not testified?

7 THE AUDIENCE: (No response.)

8

9 \* \* \* \* \*

10 C L O S I N G C O M M E N T S

11 MR. WALTERS: I would just like to remind all  
12 of you that the deadline for submitting written comments is  
13 Friday - well, I don't know if it's Friday - but it's  
14 February 14th, 2000.

15 I want to thank all of you who have testified, and  
16 the hearing is now adjourned.

17 (The hearing concluded  
18 at 4:55 p.m.)

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## 1 C E R T I F I C A T E

2

STATE OF WASHINGTON )  
3 ) ss  
COUNTY OF KING )  
4

5 I, PAULA SOMERS, a duly authorized Notary Public  
6 in and for the State of Washington, do hereby certify that  
7 this is a true transcript of the Public Hearing regarding  
8 Ergonomics; that the said hearing was recorded in shorthand  
9 and later reduced to typewriting; and that the above and  
10 foregoing is a true and correct transcript of said hearing.

11

12 I do further certify that I am not a relative of,  
13 employee of, or counsel for either of said parties or  
14 otherwise interested in the event of said proceedings.

15

16 I HAVE HEREUNTO set my hand and affixed by  
17 official seal this 19th day of January, 2000.

18

19

20

21 \_\_\_\_\_  
Paula Somers, CSR  
22 NOTARY PUBLIC in and for the  
State of Washington, residing at  
Renton.  
23 My commission expires 9/29/03.

24

25